

MID DEVON DISTRICT COUNCIL

MINUTES of a MEETING of the COUNCIL held on 1 July 2020 at 6.00 pm

Present

Councillors

L J Cruwys (Chairman)
Mrs E M Andrews, G Barnell, E J Berry,
W Burke, J Cairney, R J Chesterton,
S J Clist, Mrs C Collis, Mrs F J Colthorpe,
D R Coren, N V Davey, Mrs C P Daw,
R M Deed, R J Dolley, J M Downes,
C J Eginton, R Evans, Mrs S Griggs,
B Holdman, T G Hughes, D J Knowles,
F W Letch, B A Moore, Miss J Norton,
S J Penny, D F Pugsley, R F Radford,
C R Slade, Mrs M E Squires, R L Stanley,
L D Taylor, Ms E J Wainwright,
B G J Warren, A White, A Wilce,
Mrs N Woollatt, J Wright and A Wyer

1 Apologies

There were no apologies, all Members were present.

2 Protocol for Remote meetings (00-10-40)

The protocol for remote meetings was noted.

3 Public Question Time (00-10-54)

The Chairman read a list of questions on behalf of Mr Davey referring to the 3 Rivers Governance Report:

1. Given that two large national developers- Russell Harrison & McCarthy & Stone - having spent thousands of pounds on surveys, plans etc.. and with all their schemes, no matter how poor, being rubber stamped by MDDCs planning committee - have abandoned their schemes as they could see no profit, was a proper cost profit analysis carried out by an independent consultancy i.e not the council or it's architects ?
2. Given that 3Rivers was set up by the council largely as a result of a report by a finance director in order to develop this and other sites and has not and is unlikely to make a profit. Is it not time to liquidate 3 Rivers , go back to the drawing board and consult with groups like the Angel Project of which I was a co-founder- to try to salvage from this disaster a better scheme which improves the area and enhances the riverside?
3. The accountants estimate a more than three quarters of a million pounds overspend on this project, I think this is a gross under estimate. I believe that a one and a quarter million pounds overspend is more realistic given the fact that despite nearly three years since start of work on this site, all of the ground works

are still not complete. What does the council intend to do as a matter of urgency, to staunch the haemorrhage of our -the council tax payers money ?

4. Given that most of the discussions around 3 Rivers and this scheme have been held in secret- to I believe save embarrassment of the council and some of top level management rather than any commercial considerations, when will the council hold a proper open meeting to discuss this fiasco and the implications for services in the future given the debt that will be incurred ?

The Deputy Chief Executive (S151) provided the following answers

1. After a national advert to find an architect capable to deliver an exemplar scheme to fit such a prominent site in Tiverton, the Council instructed Randall Simmonds LLP (professional construction consultants) to provide a budget cost sum analysis for the scheme. This value was very close to the final tendered price received by 3RDL after entering in to a negotiated contract with the current contractor. As many of you are aware this scheme (designed by Mikhail Riches - a London based architect) has already won a national design award (Housing Design).
2. This scheme was carefully selected by the Council in order to see the delivery of a project that would be of a very high design and build quality, maximising the sites location and vistas and would help to add increased footfall to that area of the Town centre. For clarification, 3RDL has already returned significant sums to the Council over the past 2 years and delivered its only completed scheme to date, on time and at its budgeted level of profit. I can confirm that the Council will continue to provide regular and diligent over sight on all current and future projects.
3. The Council is aware of a potential loss on this specific project and is currently working with its Development Company in order to be assured that the project is completed without further budgetary implications or time delay. Clearly, the whole commercial property market has been significantly impacted by Covid19, but it is encouraging to see a return to "business as normal" for most areas of the construction industry.
4. The Council continues to work with its Development Company and maintains an ongoing level of support for its operations. It has recently commissioned some external reports in to the ongoing governance and financial viability of the company and has made a number of recommendations that will be implemented at the earliest possibly opportunity. If lessons need to be learned from this one specific development, rest assured we will learn from them and then move forwards.

The Leader then made the following statement: There has been considerable mystery around the performance of 3 Rivers and the oversight of the company by the responsible officers at the Council. I do believe the time has come to lift the veil of secrecy and that we should have more transparency in our dealings not only with Members but with members of the public. You have heard in Mr Jarrett's response that 3 Rivers has already returned significant sums to the Council over the past 2 years and delivered its only completed scheme to date on time at its level of profit. This is opaque speak in that not one penny has been returned to the Council by 3

Rivers over the past 2 years, every penny of interest due from 3 Rivers to the Council has had to be lent by the Council to 3 Rivers and remains outstanding within its total loan figure due to the Council. With regard to the completed scheme, although 3 Rivers should have paid the profit on that scheme of around £100,000 to the Council, in fact that sum was not repaid as it should have been, but was retained by 3 Rivers effectively reducing their borrowing requirement by that amount. Also as part of the response it has been said that a number of recommendations emanate from recent commissioned reports on the ongoing governance and financial viability of 3 Rivers will be implemented at the earliest possible opportunity. Members it is the view of myself supported by the Cabinet that where practicable, all of the recommendations not just a number will be implemented. In terms of the ongoing performance of 3 Rivers, we would trust that these recommendations will be implemented at the earliest possible opportunity as until they are, the company will not be getting a green light to go forward.

4 **Declarations of Interest under the Code of Conduct (00-22-37)**

Members were reminded of the need to declare any interests when appropriate.

5 **Minutes ((00-23-01)**

The minutes of the meeting held on 26 February 2020 were agreed as a correct record.

6 **Chairman's Announcements (00-24-00)**

The Chairman had the following announcements to make:

- He had recently visited the widow of the late Cllr Gerald Luxton and had delivered the book of condolence, Mrs Luxton had been very appreciative and grateful for all the messages and cards that she had received.
- He informed the meeting of an Extraordinary Meeting of Council that would take place on 29 July 2020 to consider the adoption of the Local Plan.

7 **Petitions (00-25-34)**

There were no petitions presented.

8 **Notices of Motions (00-25-44)**

(1) Motion 563 (Councillors: B Holdman and L D Taylor – 19 May 2020)

The Council has before it a **MOTION** submitted for the first time:

That:

a) This Council resolves to hold all member briefings and working/advisory groups (where practicable) remotely in the future which will aid the reduction of carbon emissions and provide significant savings on Members travel expenses.

b) This Council agrees to lobby central Government requesting that Regulation 5 of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local

Authority and Police and Crime Panel meetings) (England and Wales) Regulations 2020 be extended past May 2021 and be formed into new legislation allowing Members to have the option to attend any meeting of the Council either in person or remotely.

The **MOTION** was **MOVED** by Councillor L D Taylor and seconded by Councillor B Holdman.

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that the matter be discussed at this meeting.

Following a lengthy discussion and upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

9 Reports - Cabinet - Report of the meeting held on 23 April 2020 (1-32-38)

The Leader presented the report of the meeting of the Cabinet held on 23 April 2020.

10 Cabinet - Report of the meeting held on 7 May 2020 (1-34-25)

The Leader presented the report of the meeting of the Cabinet held on 7 May 2020.

11 Cabinet - Report of the meeting held on 11 June 2020 (1-35-04)

The Leader presented the report of the meeting of the Cabinet held on 11 June 2020.

12 Scrutiny Committee - Report of the meeting held on 18 May 2020 (1-36-16)

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 18 May 2020.

13 Scrutiny Committee - Report of the meeting held on 1 June 2020 (1-37-00)

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 1 June 2020.

14 Scrutiny Committee - Report of the meeting held on 22 June 2020 (1-37-36)

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 22 June 2020.

15 Audit Committee - Report of the meeting held on 2 June 2020 (1-38-59)

The Chairman of the Audit Committee presented the report of the meeting of the Committee held on 2 June 2020.

16 Audit Committee - Report of the special meeting held on 23 June 2020 (1-39-38)

The Chairman of the Audit Committee presented the report of the special meeting of the Committee held on 23 June 2020.

17 Environment Policy Development Group - Report of the meeting held on 10 March 2020 (1-40-12)

The Chairman of the Environment Policy Development Group presented the report of the meeting of the Group held on 10 March 2020..

18 Homes Policy Development Group - Report of the meeting held on 17 March 2020 (1-41-21)

The Chairman of the Homes Policy Development Group presented the report of the meeting of the Group held on 17 March 2020.

19 Economy Policy Development Group - Report of the meeting held on 12 March 2020 (1-42-00)

The Chairman of the Economy Policy Development Group presented the report of the meeting of the Group held on 12 March 2020.

20 Economy Policy Development Group - Report of the meeting held on 4 June 2020 (1-42-43)

The Chairman of the Economy Policy Development Group presented the report of the meeting of the Group held on 4 June 2020.

21 Planning Committee - Report of the meeting held on 11 March 2020 (1-44-49)

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 11 March 2020.

22 Planning Committee - Report of the meeting held on 20 May 2020 (1-45-28)

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 20 May 2020.

23 Planning Committee - Report of the meeting held on 17 June 2020 (1-46-10)

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 17 June 2020.

24 Standards Committee - Report of the meeting held on 10 June 2020 (1-47-07)

The Chairman of the Standards Committee presented the report of the meeting of the Committee held on 10 June 2020.

25 Licensing Committee - Report of the meeting held on 19 June 2020 (1-47-39)

The Chairman of the Licensing Committee presented the report of the meeting of the Committee held on 19 June 2020.

26 **Regulatory Committee - Report of the meeting held on 19 June 2020 (1-48-08)**

The Chairman of the Regulatory Committee presented the report of the meeting of the Committee held on 19 June 2020.

1. Animal Welfare Licensing Policy (Minute 8)

The Chairman of the Regulatory Committee **MOVED** seconded by Councillor D R Coren:

THAT the recommendations of the committee as set out in Minute 8 be **ADOPTED**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

27 **Questions in accordance with Procedure Rule 13 (1-52-21)**

There were no questions submitted under Procedure Rule 13.2.

28 **Political Allocation (1-52-27)**

The Council had before it a revised *allocation of seats reflecting the current membership of the Council.

To allow the tables to balance the line shown highlighted in yellow (Committee:Total) indicated that both the Liberal Democrat Group and the Independent Group needed to lose a committee/PDG seat each. The Green Group needed to gain 2 seats.

It was **AGREED** that the Green Party gain a seat on the Environment Policy Development Group provided by the Liberal Democrats and that the Green Party gain a seat on the Planning Committee provided by the Independent Group.

The Chairman **MOVED** that: the Tables (as amended) be approved with regard to the allocation of seats on Committees and other bodies.

Upon a vote being taken, the **MOTION** (as amended) was declared to have been **CARRIED**.

Note: * Allocation of seats previously circulated, copy attached to minutes.

29 **Special Urgency Decisions (1-59-05)**

With regard to any decisions taken under Rule 16 (of the Constitution) Special Urgency – between January and June 2020, the Chairman informed the meeting that no such decisions had been taken in this period.

30 **Annual Reports of Audit Committee, Scrutiny Committee and the Policy Development Groups (1-59-17)**

The Chairmen of the Audit Committee and the Scrutiny Committee and the Chairmen of the Environment, Homes and Economy Policy Development Groups presented their Annual Reports* to the Council.

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

31 **Questions to Cabinet Members (1-59-45)**

Cllr R Evans addressing the Cabinet Member for Finance stated that given the known and continued effects that Covid 19 has brought to our high streets could Mid Devon seek to lead the way in offering additional assistance to our town centres and shop keepers. The recent 'Love your Town Centre Fund' is a welcome initiative but the current situation demands us to be more proactive and offer more immediate assistance. Shops have been given the green light at last to open up and to welcome the public back through their doors. Can Mid Devon seek to offer an immediate benefit of some free parking for an agreed period of time within the 3 main town centres as other town councils have, Wellington and Taunton are 2 relatively local examples. Such a gesture would help to give a much needed boost to shops and businesses and would show the residents of Mid Devon our commitment to our town centres. Funding could be taken from money available from a second tranche of town centre grants and town councils could also be asked to consider contributing from the precept monies that they raise to assist towns in a number of ways.

The Cabinet Member for Finance responded stating that yes he did agree that this would be a positive step for our towns to be able to offer some free parking for a limited period of time in order to make a surge in the town centre and to get more people in there. I am aware that huge job losses are being announced across the board in town centres across the country and this is a very worrying time for lots of people and anything that we can do to try to stimulate a resurgence in our town centres is a really positive thing. I know that a lot of people during the pandemic have been shopping locally and we would want to continue to support that. Please be rest assured that this has been raised with the S151 Officer and we are looking into when we would be able to implement this, at the earliest opportunity. When we are able to do this I will then revert back to the Council.

Cllr R Stanley, addressing the Cabinet Member for Housing and Property Services stated that some of your Cabinet colleagues have over recent times provided a useful written resume of their portfolio and other things, unfortunately no such briefing has been received from yourself covering matters within your portfolio, it would be most useful if you are able tonight to provide members with a brief verbal report on those matters that you are responsible for.

The Cabinet Member responded stating that he would be publishing in the next couple of days an update which he hoped to do on a fortnightly basis from now on.

Cllr Wilce, addressing the Leader stated that this administration has said many times that it wants to be open and transparent in its affairs but I would say that there remains significant room for improvement, especially relating to matters of 3 Rivers. To that end, I commend the Leader for stating publicly the questions rather than take them to the private meeting tomorrow as was suggested by Cllr Evans. Transparency should always be the starting point and not secrecy, will you commit to taking action to ensure that all future reports presented to Council are in such a way that only information that is actually considered to be exempt for publication is withheld from the public and not the entire contents of those reports. Will you also commit to ensuring that the minutes of confidential meetings comply with the Local Government

Act in that they provide the public with sufficient information as to know what business was transacted in private without releasing confidential information?.

The Leader referring to the previous question stated that the Cabinet were very alive to what was going on in the town centres and referred to the road closures in Tiverton and that the Cabinet were looking at what they might do to alleviate the lack of on-road parking spaces by making an adjustment perhaps to one of the car parks.

The Leader referring to Cllr Wilce's question stated that he could assure him that he would be in discussion with the Monitoring Officer to discuss how all future reports presented to Council be more fulsome and transparent in order that discussions, whatever the subject can be held in Part I and that Part II discussions will be reduced to the absolute minimum. The lack of open discussion at public meetings has led to frustration on the part of both members and the public and that obviously feeds false rumours and cannot be of benefit either to this Council or to the public perception in the way that this Council operates. I can assure you that the discussions with the Monitoring Officer will also cover the extent of minutes of confidential meetings and their compliance with the Local Government Act.

The Monitoring Officer stated that the members of the Audit Committee would recall and that it was in the minutes of the meeting held on 23 June, that she had undertaken to bring a report to Council to have a consistent approach to minutes in the future.

Cllr Wilce addressing the Leader stated that we have received audit reports detailing what governance issues were identified for the running of 3 Rivers along with recommendations for action. Such reports do not go into detail as to how and why these issues came about or who was responsible for them. This should not be taken to mean that mistakes have not been made nor deliberate acts of omissions that gave rise to the rest of these issues, as yet we don't know how or why these things happened because no one has elected to provide that information and so we are obliged to carry out that further piece of work if we are to do our jobs properly. In doing so we must be mindful that the actions of others have also had a serious affect on governance, such as the delegation of shareholder responsibility to the Chief Executive by the previous Cabinet. I have also heard criticism that you have contributed to the problem by not acting as swiftly as you might have once you became aware of these issues. Would you like to respond to this criticism?

The Leader responded stated that he wanted to set the record straight, on May 23 2019 the day after I was appointed as your Leader I sat in the Chief Executive's office and one of the topics that was discussed, as you would expect was 3 Rivers. I did request at that meeting that I wished to be told of any problems before the end of May 2019 and any such disclosures would be dealt with as appropriate on a non blame basis. I could give no guarantees as to how I would respond if problems came to light subsequently. Over the next 5 months, I regularly requested that an external report be commissioned in order that we might have an assessment of any remedial action that may be necessary to take in respect of 3 Rivers. You will be aware that for over the previous 12 months, both the Chair of Audit, myself and many other members had a concern about a potential conflict of interest by individual directors, these conversations came to nothing until November 2019, at which point it was admitted that it was thought it was only me who was interested in finding out about 3 Rivers and that by definition, I did not have the support of my Cabinet. In November

2019, Anthony Collins Solicitors were commissioned to write the report that I wanted, except that when this was produced in December 2019, the report only addressed a question in relation to winding up 3 Rivers. That did not reflect what I had been asking for in the previous 6 months. Anthony Collins Solicitors were then commissioned to review 3 Rivers in the light of my constant request - ie what would the recommendation be regarding the company to support continuing with 3 Rivers, with the existing directors, continuing with 3 Rivers with a new board of directors, winding down the company (completing existing projects but not starting any new projects) and winding up the company. You have seen the report of Anthony Collins Solicitors which was produced in February 2020 and at their recommendation a further report was commissioned from Bishop Fleming which was received in May 2020. Unlike my previous life in London in international banking where matters such as 3 Rivers would have been dealt with in 13 days, in the Local Authority world it takes 13 months and counting. Tomorrow you are all invited to discuss with the 3 existing directors the company's performance since its inception. I consider the 3 Rivers debacle to be totally non political and I don't see any future in it becoming a political issue, I have been trying with the support of my Cabinet to resolve the issues with 3 Rivers as quickly as possible. Without 6 months of unreasonable delay, 3 Rivers would now be up and running and we would now know how they were going to perform going forward. The delay has held up 3 Rivers activity, but Covid 19 has not assisted. I am not going to accept any liability for this delay.

Cllr Wilce addressing the Cabinet Member for the Working Environment and Support Services asked whether she would join him in thanking Mrs Irene Hill for her services to the District Council and could she assure members that improvements will be made to ensure that all members and staff are positively enabled to perform their duties.

The Cabinet Member responded stating that she would of course thank Cllr Irene Hill for her service to the Council and her constituents, despite her difficulties she went to great efforts to contribute fully and I regret her personal decision to resign, I can assure members that officers are currently working on reviewing practices to see what more support can be given to members in similar circumstances.

Cllr Wilce addressing the Cabinet Member for Finance, stated that before racing into a decision to offer free parking, will he ensure that a study is made into the impact of doing that in the past and to establish whether or not it does actually provide a positive benefit?

The Cabinet Member responded stating that discussions were being had with the S151 Officer into affordability and as to whether this would improve the situation, we need to get the latest data with regard to the number of receipts we are having and we will look at the next steps.

Cllr Warren addressing the Leader stated that over an extended period of time concerns have been raised by members of the public and elected members over the operation and governance of 3 Rivers Developments Limited, this company is wholly owned by MDDC and elements of its operation and financing has been the subject of independent reports and discussions in private without the press and public being present at various committees. Various concerns have been raised reflecting alleged short comings in governance and loans and staff payments, has anyone accepted responsibility for that or even that these concerns are justified. If they have can we

please be made known and can we then please move on to either making 3 Rivers a viable operation or failing that make suitable arrangements for the closure of the operation with the minimum amount of financial damage to the Council.

The Leader responded stating that the short reply was no and no. As no responsibility has been accepted I cannot make any acceptance known. The approach to 3 Rivers at all meetings to date notwithstanding that they have always been in Part II have been on the basis of discussions being non-political and non judgmental and I trust that future meetings including tomorrow evening will be conducted on the same basis. Members will already have read not only the comments and recommendations in the Anthony Collins Solicitors and Bishops Fleming reports but will also have assimilated the comments for the Devon Audit Partnership and the Grant Thornton Audit reports. You can make up your own minds to where things should have been done differently and the person or persons who should have conducted more vigorous oversight, it will be difficult to pin point on any individual any blame as I have realised that within the Local Authority world. It would appear to be ungentlemanly to acknowledge any fault unlike in the real world. It is my and the Cabinet's intention that we pick up the pieces of 3 Rivers and restore it to a viable company, but obviously there are various and extensive changes to be made to the operation of the relationship between 3 Rivers and its parent company Mid Devon District Council and to the performances of individuals in both entities. Obviously if it takes too long to set up 3 Rivers on a satisfactory basis, both in terms of its legal approach, governance and financial arrangements coupled with a new board, then procrastination to achieve that may lead to the premature closure of the operation. Whether the company survives is substantially dependent on the will and cooperation of the company's sole shareholders representative. As Members will realise, Cabinet have not had the best assistance or cooperation over the last 13 months and that approach needs to change for the benefit of 3 Rivers and the Council investment of public funds.

32 Members Business (2-23-12)

Clarity was provided with regard to the road closures in Bampton Street and Gold Street, Tiverton.

Cllr Wilce stated that the Governance Working Group had agreed to set up a sub working group, but that unfortunately there had been no volunteers to date.

Cllr Mrs Griggs wanted to thank officers in these difficult times for the helpful and positive way they had helped members.

The Leader reminded all those present of the meeting to be held the following evening with the directors of 3 Rivers.

(The meeting ended at 8.30 pm)

CHAIRMAN