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Mid Devon District Council

Scrutiny Committee

Thursday, 24 August 2023 at 5.30 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Monday, 11 September 2023 at 5.30 pm

Please Note: This meeting will take place at Phoenix House and members of the Public and Press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

To join the meeting online, [click here](#)

Membership

Cllr R Gilmour
Cllr G Westcott
Cllr D Broom
Cllr Mrs F J Colthorpe
Cllr A Cuddy
Cllr G Czapiewski
Cllr M Farrell
Cllr B Holdman
Cllr L G J Kennedy
Cllr R Roberts
Cllr S Robinson
Cllr N Woollatt

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute Members (if any).

- 2 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**
To record any interests on agenda matters.

- 3 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

- 4 **DECISIONS OF THE CABINET** (*Pages 5 - 34*)
To consider any decisions made by the Cabinet at its last meeting that may be called-in.

Stephen Walford
Chief Executive
Wednesday, 16 August 2023

Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

Please note that a reasonable amount of hardcopies at the meeting will be available, however this is a limited number. If you are attending the meeting and would like a hardcopy of the agenda we encourage that you notify Member Services in advance of the meeting to ensure that a hardcopy is available. Otherwise, copies of the agenda can be found on our website.

If you would like a copy of the Agenda in another format (for example in large print) please contact Andrew Seaman on: aseaman@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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Report for: Cabinet

Date of Meeting: 16 August 2023

Subject: 3 Rivers Development Limited

Cabinet Member: Cllr James Buczkowski

Responsible Officer: Andrew Jarrett Deputy CEO (S151)

Exempt Appendices 1 and 2 which are Exempt from publication under paragraph 3, Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)

Enclosures: Appendix 1 - Report from Francis Clark (exempt)

Appendix 2 - Briefing Paper from Deputy Chief Executive (S151) (exempt)

Executive Summary

This report has considered the current trading position of the Council's wholly owned property development company and it's potential for medium to longer term financial viability. Based on its own analysis and supported by external opinion from Francis Clark, the Cabinet is recommending to Full Council that the only viable decision is one of "soft closure" of the company.

Recommendation(s):

1 - Cabinet recommend to Full Council a "soft closure" of 3 Rivers Development Ltd. over a sensible short term period in order to minimise any potential financial exposure and maximise returns from company assets.

2 - Delegated authority is given to the Deputy Chief Executive in conjunction with the Cabinet Member for Finance to deliver/instruct all necessary activities in order to deliver a "soft closure" and maintain timely decision making in order to protect the Council's position during this process.

3 - That the Deputy Chief Executive, in discussion with the Cabinet Member for Finance procure any additional professional advice required to protect the Council's position and maximise the return to the Shareholder and minimise any potential further losses.

1.0 Background

- 1.1 At a meeting of Full Council on the 7/3/23, after rejecting the 3rd iteration of a company Business Plan and associated development business cases, the Council decided to allow the company to continue to completion the 2 live projects (St. Georges Court, Tiverton and Haddon Heights, Bampton) and asked officers to commission a viability report in to the future of the company. This decision effectively put all other company activity on stop/pause.
- 1.2 This commission was agreed by the Cabinet and was subsequently tendered and awarded to Francis Clark. This commercially sensitive part 2 document is included as Appendix 1 to this report.
- 1.3 Back in 2017 the Council made the commercial decision to set up a property development company, in order to see higher levels of property numbers, enhanced quality of build, more affordable housing numbers and to see a financial return to the Council to mitigate some of the difficulties of the national public sector austerity programme, as the alternative would have meant significant reductions in service delivery and standards.
- 1.4 It is evident, after nearly 6 years of delivery, set against a challenging national economic background, that the financial rationale behind setting the company up hasn't been achieved. Therefore, in light of the Council's decision not to agree any further business activity for the company a fundamental and urgent decision is required as to what the Council needs to do now.

2.0 Current position

- 2.1 The Council's wholly owned property development company 3 Rivers Development Ltd. have a total loan book from the Council of circa £21.3m, it currently has only 2 live projects, both nearing completion, no future development pipeline and is facing a very challenging economic future, with rising interest rates and significant uncertainty in the housing market.
- 2.2 Also with an annual operational overhead of circa £0.3m the company needs to generate annual sales turnover of around £3-3.5m just to cover these costs.
- 2.3 This report includes two important documents which attempt to summarise the company's current position, based on a number of fairly challenging and inter-related market estimates and then provide some strategic direction on what the options are for the Council moving forwards.
- 2.4 The aforementioned documents, are firstly, the detailed financial options appraisal produced by Francis Clark and is included as Appendix 1 to this report. In addition there is a briefing paper provided by the Deputy Chief Executive (S151) which highlights an overview of where we are now, options

that are available and the decisions that are urgently required. Both of these reports/papers contain financial and commercially confidential information and are therefore included as part 2 documents to assist the decision making recommended in this report.

3.0 The Financial Impact

- 3.1 The company's trading position has deteriorated over the past 3 years. This position is predominantly associated with the St. Georges Court project and down to insufficient business activity to contribute/offset the company's working capital/overheads. In addition, the company has also been heavily impacted by Covid19 and then the cost of living (COL) crisis, with the direct impact of rising material and contractor costs and the associated reduced availability of resources. The company is now facing the double threat of rising interest rates, impacting both current operational costs and future sales and the direct linkage associated with a challenging and uncertain housing market.
- 3.2 In addition to this, changes to Government/Treasury guidance on investing outside of the District during the life of the company, has also further restricted the company's development options, narrowing any commercial potential even further.
- 3.3 Reflecting on these financial company challenges, the Council in completing the 2021/22 and 2022/23 accounts, has made provision for potential company losses of circa £5.3m. Depending on what the Council decides to do with its company after assessing this report, further write offs will likely need to be made and how they could be funded, once further decisions/outcomes are crystallised.
- 3.4 If a decision is made to "soft close" 3 Rivers Development Ltd. it is likely that the Council will need to commission further professional advice in order to ensure that the closure is undertaken correctly in order to reduce any further financial exposure.

4.0 Conclusion

- 4.1 Based on the summary findings made by Francis Clark and assessing the overarching commentary supplied in the additional briefing paper provided by the Council's Deputy Chief Executive (S151), it is recommended that the Council decides to "soft close" its development company in an orderly, but relatively time-effective manner, in order to maximise all potential asset/development returns and minimise any potential liabilities/cost exposures.

Financial Implications: These are detailed within the main report and the 2 attached documents.

Legal Implications: The Council will ensure all necessary decisions emanating from this decision are conducted in full compliance with relevant legislation and external advice will be secured where necessary.

Risk Assessment: Detailed papers were provided by the CE and DCE to a meeting of Full Council in March 2023. The main issue here is continuing to support a business, set against a very uncertain and challenging market, or making a strategic decision now to “soft close” the business and thereby crystallising current estimated losses.

Impact on Climate Change: None associated with this report.

Equalities Impact Assessment: None associated with this report.

Relationship to Corporate Plan: The company, at its inception, was set up to help partially fund and link to a number of key strategic objectives in the Corporate Plan. However, 6 years later the Council now needs to make a fundamental decision which will enable it to concentrate on the delivery of a new Corporate Plan.

Statutory Officer sign-off

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 2/8/23

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 2/8/23

Statutory Officer: Maria De Leburne
Agreed by or on behalf of the Monitoring Officer
Date: 2/8/23

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Andrew Jarrett
Email: ajarrett@middevon.gov.uk
Telephone: 01884 - 234242

Background papers: Report from Francis Clark and briefing paper provided by DCE (S151) and Briefing Paper by Deputy Chief Executive (S151)

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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