

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 29 October 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, S J Clist, Mrs C P Daw, F W Letch, R F Radford,
B G J Warren and A Wilce

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Jill May (Director of Corporate Affairs and Business Transformation), Kathryn Tebbey (Head of Legal (Monitoring Officer)), Ian Chilver (Group Manager for Financial Services), Simon Newcombe (Group Manager for Public Health and Regulatory Services), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Arron Beecham (Forward Planning Officer), Darren Beer (Operations Manager), Stephen Bennett (Building Surveyor), Vicky Lowman (Environment and Enforcement Manager), Sarah Lees (Member Services Officer) and Sally Gabriel (Member Services Manager)

246. APOLOGIES (00-03-04)

There were no apologies for absence.

247. PROTOCOL FOR REMOTE MEETINGS (00-03-14)

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

248. PUBLIC QUESTION TIME (00-03-25)

The Chairman read out a statement and a question on behalf of Mr Quinn referring to Items 7 (Public Spaces Protection Order) and 14 (3 Rivers Developments Limited) on the agenda:

Firstly on Agenda Item 7 – Public Space Protection Order

I was surprised to hear at the Full Council meeting last night that some New Evidence and New Proposals were being put to the Cabinet tonight on this matter. Surely, the public should have been informed - prior to the meeting.

A paper has been circulated called the full set of responses to the public consultation. This title is wrong - it is not a full set. It does not show the responses from all the consultation questions. No responses are shown from questions asking for Alternative Proposals, Adverse Impacts or Additions or Removals. The responses, that are shown, are incomplete. I know because I made a response, which is not listed. Other responses may also have been missed.

There does not appear to be sufficient evidence of nuisance put forward to justify all the clauses in the PSPO and all the areas covered. The Environment PDG considered that the consultation process was flawed. Putting this PSPO in place will leave the Council open to challenge.

I ask: Will Cabinet please refer this matter back to the Environment PDG for further review?

Secondly on Agenda Item 14 – 3 Rivers Options Report

There is a request, in the report, for money to get legal advice to explore the possibility of setting up a subsidiary to 3 Rivers - to undertake work directly on behalf of the Council. 3 Rivers can already undertake work for the Council without the need for a subsidiary - the recent development at Burlescombe is an example of this.

I understand that the Company has never passed any profits to the Council and the draft budget for this year shows another impairment of £131,000 against the non-repayment of a loan to 3 Rivers. The Council has spent the last year, behind closed doors, trying to sort out the 3 Rivers Company and not all of the fixes are in place yet. With the current financial state of the Council, now is not the time for risk. Put your new Directors in place and let them get this Company operating properly - before you start talking about creating another one.

I ask: Will Cabinet please reject this request?

Mr Conyngham referring to Item 6 (Syrian Vulnerable Persons Refugee Scheme) stated that I am convenor of Welcoming Refugees in Crediton. In March this year we resettled a Kurdish family who are refugees from Syria in a house in Crediton. This was with the support of MDDC although the work involved in the Housing aspects was carried out by Seymour Lettings. The family have settled in very well and have been warmly received by the local community. They are learning English and the teenage children attend QE and Exeter College. Last month the Homes policy committee discussed the future of the programme and made a recommendation to the Cabinet for MDDC to agree to take up to 5 families under the existing scheme and the new scheme which starts in April 2021? Will the Cabinet support this recommendation, especially bearing in mind that this will involve minimal work for Housing officers since most of the work is carried out by Seymour Lettings and no cost to the Council since any costs are reimbursed by the Home Office via DCC?

Anthea Duquemin referring to Item 6 (Syrian Vulnerable Persons Refugee Scheme) stated she was the owner of the house in Crediton which is rented by the most recently arrived Syrian family. I have been delighted with how well the scheme has worked and how easy Seymour Lettings have made the process of preparing the house for the family and then managing the rental arrangements since the family

arrived. I have also been delighted by how appreciative the resettled family is of the house and of all the support they are receiving and how strong their wish is to integrate with the Crediton community. It's been wonderful to see how generously and enthusiastically members of the Crediton community have welcomed the family and looked for ways to help them integrate. Is the Cabinet aware of how strong the wish is of at least some of the Mid Devon communities to continue with this resettlement process that allows us to benefit from cultural exchange and a sense of sharing what is good about life here? I very much hope that the Cabinet will take those benefits into account when considering the proposals to allow another five families to resettle here.

Honorary Alderman David Nation referring to Item 7 (PSPO) on the agenda stated that in June of this year I was told that I needed to make a Freedom of Information request to get details of incidents involving dogs rather than just the headline figures which had been quoted before in reports. I did this and received the following reply – 'We have searched all systems and ran a report on all dog incidents that were reported from 2018 to date. The attached spreadsheet shows a total for the whole district as 165. During the period 1 April 2019 – 31 March 2020 the total was 71, 18 of which were marked as aggressive behaviour. The rest were dog fouling and 1 nuisance.' However the report of the PDG states – 'Between April 2019 – March 2020 128 reports had been logged in relation to aggressive behaviour from dogs both on and off leads within public areas'. Both figures cannot be right, what is the point of making formal requests to this council if inaccurate replies are provided. My interests is in the parks in Crediton and the spreadsheets reveal that in 2 and a half years none of the incidents in Crediton occurred in our parks other than Newcombes Meadow where present regulations require dogs to be kept on leads anyway and few object to that. There were no reports of aggressive dogs in the other parks where officers are now saying more restrictions are necessary. Are you, Councillors, deciding whether to accept the officers recommendations aware of all this? If so how can you justify these further controls? Let me add that I have no objections at all about dog owners being totally responsible for cleaning up after their animals whether the dog is on a lead or not.

Mrs Mary Nation also referring to item 7 stated she was very surprised to learn of the proposal under the order to stop dogs being let off the lead which is obviously very common within the area and led us to getting the schedule of incidents from the Council under Freedom of Information. I've seen the latest report from the officers and wonder why the draft order ignores the results of the consultation where over half of the comments received wanted to be able to exercise their dogs off the lead. I also found that the recommendation from the PDG is unclear, it doesn't seem to be clear whether it is proposing if the whole order goes out to consultation again or whether it is just the amendments that go out for consultation and it would be useful to know which was which. I've seen Government guidance that a Local Authority should consider other options before making such a restrictive order and they should also consider providing alternative places to exercise dogs off the lead if they are bringing in such a ban. Where in Crediton has been suggested, I haven't seen anything giving any ideas. There is nowhere that I know of, except farmland, which as the guidance says, is a sensitive area for dogs to be let off a lead. You don't know what is going to be in that field. The question of having dogs not allowed off the lead means where can I throw a ball for my dog and exercise it in that way, give it enjoyment, give myself enjoyment and give children enjoyment to play with their dogs. That would be useful to know. And lastly have the Councillors on the EPDG

seen the detailed numbers and the types of complaints made as David Nation has said under the schedule that we received under the Freedom of Information request. We've been through those and we are obviously just talking about Crediton because that is where we live. We haven't considered the instances throughout but it does seem that there seems no reason at all to bring in the ban when there hasn't been any incidents in the areas proposed to be now covered.

The Chairman indicated that answers to questions would be provided within the debate or a written response would be provided.

249. DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-16-12)

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

250. MINUTES OF THE PREVIOUS MEETING (00-16-14)

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

251. SYRIAN VULNERABLE PERSONS REFUGEE SCHEME AND THE NEW UNITED KINGDOM RESETTLEMENT SCHEME

Arising from a *report of the Group Manager for Public Health and Regulatory Services, the Homes Policy Development Group had made the following recommendations:

- a) The proposal made by a community sponsorship group with regard to the resettlement of an additional refugee household in the district under the existing Syrian Refugee Resettlement Scheme be approved.
- b) The Council should take part in the new United Kingdom Refugee Scheme (UKRS).
- c) A maximum of 5 additional families are supported through either the existing or the new scheme. Should the existing Syrian scheme reopen and be available locally then under existing commitments 2 of these additional 5 families should be supported through that scheme, leaving a balance of 3 families to be supported under the new UK scheme. If none or just 1 family can be supported under the Syrian scheme then the balance of placements should be rolled over into the new scheme.

The Cabinet Member for Housing and Property Services outlined the contents of the report stating that this was a continuation of a scheme agreed in 2017 and that he was pleased to support the recommendation of the Policy Development Group. Due to the current pandemic, such schemes were on pause and no date had been received by the Government for the scheme to resume, however conversations continued to take place with Devon County Council.

Consideration was given to:

- The success of the scheme
- The commitment of other authorities

- How well the families had settled into the community
- The need to consider where families were housed so that accessible facilities were convenient to them

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

(Proposed by the Chairman)

Reason for decision - The Council is required to agree the proposal relating to community sponsorship before it can go forward, in line with Home Office rules. However, once agreed, the community group will take the lead on this. The Council will be required to confirm that any property chosen complies with relevant health and safety legislation and will be invited to participate in post- arrival visits but there is no requirement to join these visits as DCC can take the lead and report back, as appropriate.

Other local authorities in Devon have pledged to support the UKRS and DCC are keen to promote Devon as a county welcoming to refugees.

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

252. **PUBLIC SPACES PROTECTION ORDER (00-25-55)**

Following consideration of a *report of the Environment and Enforcement Manager, the Environment Policy Development Group has made the following recommendations: that the PSPO be redrafted to take account of the public consultation responses before it goes out for further public consultation on additional areas proposed. The revised PSPO be brought back to Environment PDG for recommendation to the Cabinet.

The Cabinet Member for the Environment outlined the contents of the report stating that the current PSPO ran out on 19 October 2020 and that there was a need to approve a new order. He felt that the consultation process had been well received and that key points from the consultation had been added to the document.

The Leader highlighted the fact that the PDG had recommended that the PSPO be redrafted and that a further consultation process take place, some errors had been highlighted and that there was a need for further work to take place.

The Head of Legal (Monitoring Officer) addressed some of the issues that had been raised through public question time and by members in recent days

- Why the report did not recommend changes in light of the consultation exercise – the view taken was that this was for the Cabinet as decision-maker.
- Whether a PSPO should be used as a last resort – the consideration of alternative measures was encouraged but the legislation did not require it.
- The restrictions must be justified on reasonable grounds in line with the statutory tests - if the Cabinet was not satisfied that there were reasonable grounds, they did not have to approve the making of the order now or in its current form.

- With regard to bye-laws, this was quite an old way of confirming restrictions and the enforcement of bye-laws was generally through prosecution or an injunction. It was difficult to see that this was a more proportionate response.
- The creation of different PSPOs for different issues - this was not necessary but there was no obstacles for doing this.
- Dog fouling did occur throughout the district and there would always be responsible and irresponsible dog ownership.
- Restriction of the number of dogs - this could be imposed, subject to the same tests mentioned above. The Local Government Association guidance referred to the need to focus on the number of dogs that could be controlled with the advice that this should not exceed 6.
- The requirement to identify (in terms of it being an offence not to do so) other than to a police officer was dropped in 2014.
- With regard to consulting with landowners, this should take place so far as it was reasonably practicable, the point being that unregistered land or absent owners might make it impracticable.
- A PSPO should be proportionate and enforceable.
- Mention of a higher standard of harassment and distress was not in the legislation. An assessment of proposed controls was part of the consultation and that the previous order had controls.
- Possible licences for the number of dogs that could be walked at any one time - this was not part of the statutory licensing process and was about property owners (i.e. councils) permitting certain professional dog walkers to exceed any restricted number by granting a license.

Consideration was given to:

- The possible use of Community Protection Notices and the reasons why they were not used
- The outcomes of the consultation and whether a variation to the order could be made
- Whether to increase the number of dogs walked by one person to 6
- The need for the document to be properly drafted
- Whether there was a need for a PSPO and whether other methods of control should be explored first
- What evidence was there that all the problems occurred in all the places identified and that the purpose of a PSPO was to deal with persistent matters
- The PSPO should be used proportionately and whether public order matters were occurring or whether it was just nuisance
- The resource available for enforcing breaches of the PSPO
- Whether there were less intrusive measures available
- Errors within the maps provided and that some of the play areas were not fenced
- The credibility of the figures provided as outlined in public question time
- Whether dog owners unable to let their dogs run free in open spaces would be pushed onto farmland which was not always appropriate
- Whether it was fair to put restrictions on all dog owners
- Whether further work was required to provide a sound document for approval
- The need to include some of the enclosed play areas missing from the draft document

RESOLVED that the recommendation of the Policy Development Group be approved

(Proposed by the Chairman)

Reason for the decision: To ensure that any future decision to adopt the PSPO be supported by a sound process and a sound order backed up by reasonable grounds for doing so.

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

253. **OPERATIONS DIRECTIVE ENFORCEMENT POLICY (1-25-25)**

Following consideration of a report from the Group Manager for Public Health and Regulatory Services, the joint Policy Development meeting held on 20 October had recommended that the revised Enforcement Policy attached in Annex 1 be adopted, subject to minor grammatical amendments as highlighted by the joint Community, Environment and Homes PDG.

Consideration was given to the various services that the enforcement policy covered

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

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

Reason for the decision: there is a need for the Council to have an appropriate enforcement policy in place for the relevant statutory functions of the services within the scope of the policy.

254. **DRAFT BUDGET 2021-22 (1-28-01)**

The Cabinet had before it and **NOTED** a * report of the Deputy Chief Executive (S151) outlining the initial draft 2021/22 Budget and options available in order for the Council to set a balanced budget and agree a future strategy for further budget reductions for 2022/23 onwards.

The Cabinet Member for Finance outlined the contents of the report stating that we were living in unprecedented times and the difficulties that were faced in considering a draft budget for 2021-22; this was the final year of a four year fixed funding settlement, there was uncertainty with Business Rates, the rural settlement payment, the New Homes Bonus and interest rates and that the pandemic had had a significant impact on service income. However, there was a need to set a budget in February 2021. General assumptions had been provided in the report, the overall proposed deficit was shown in the report as was the impact of the pandemic on business and the standard pressures. There was a need to work with officers to make significant savings across the board and to consider revenue opportunities

Consideration was given to:

- The importance of revenue generation and the need to consider some of the suggestions made at the member workshop
- Continued Government support

- Queries with regard to 3 Rivers impairments
- The need for partnership working and to actively seek external funding for specific projects
- The income streams already in place
- Income generation would require investment
- The Capital Programme and the loans to 3 Rivers Development Limited
- The fact that all local authorities were in the same financial position with a view to setting a balanced budget for 2021-22

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

255. **TREASURY MANAGEMENT STRATEGY AND MID YEAR REVIEW (1-57-31)**

The Cabinet had before it a * report of the Deputy Chief Executive (S151) informing it of the treasury performance during the first six months of 2020/21, to agree the ongoing deposit strategy for the remainder of 2020/21 and a review of compliance with Treasury and Prudential Limits for 2020/21.

The Cabinet Member for Finance outlined the contents of the report stating that a continuation of the current policy was proposed and that there would be a reduced borrowing requirement driven by reduced requirements from 3 Rivers developments Limited and the impact of the pandemic.

Consideration was given to how cash balances naturally reduced towards the end of the financial year and the need for some borrowing to take place.

RECOMMENDED to Council that:

- a) a continuation of the current policy outlined at paragraphs 6.0 - 6.5 be agreed.
- b) that Council approves the changes to the Capital Financing Requirement, Operation Boundaries and Authorised Limits for the current year at paragraphs 4.4 - 4.5 of the report.

(Proposed by Cllr B A Moore and seconded by Cllr C R Slade)

Reason for the decision – the Council must agree a Treasury Management Strategy.

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

256. **MID DEVON DESIGN GUIDE SUPPLEMENTARY PLANNING DOCUMENT (2-02-58)**

The Cabinet had before it a * report of the Head of Planning, Regeneration and Economy informing members of the outcome of the public consultation on the Design Guide, the amendments that have been made in response to comments received, and a request to adopt the Mid Devon Design Guide as a Supplementary Planning Document.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that the purpose of the report was to inform members of the

outcomes of the public consultation on the Design Guide, the amendments that had been made in response to the comments received, and to adopt the Mid Devon Design Guide as a Supplementary Planning Document.

The Mid Devon Design Guide had been prepared to provide detailed guidance on urban, village and rural design issues in Mid Devon. It would assist in raising design awareness and standards throughout the planning process and would be a material consideration for planning decision-making purposes.

From the outset, the overarching aim of the design guide was to better equip all parties in the planning process to identify contextual factors that influence design response and to enable them to prepare a coherent and evidenced response to those. Regular and meaningful engagement with stakeholders was therefore essential in shaping the guide.

He outlined the content of the design guide and the pocket guide that had been included which enabled Local Authority Officers, Members and applicants easy 'table-top' use of the Design Guide during design discussions.

In addition to the aforementioned stakeholder engagement exercises, the Design Guide was subject to an 8-week public consultation between 11 May and 6 Jul 2020. A total of 36 responses and 1 late representation was received. A summary of the main comments received; along with a response explaining how these had been addressed in the SPD.

Consideration was given to:

- Much of the work with regard to the design guide had commenced prior to the Climate Change Declaration, although there were various considerations within the document
- Standards for development and planning policy would be addressed within a Local Plan review

RESOLVED that: The Mid Devon Design Guide Supplementary Planning Document (comprising Appendices 1-5 to this report), the Strategic Environmental Assessment Screening Report (Appendix 6) and the Habitats Regulations Assessment Screening Report (Appendix 7) be approved for adoption.

(Proposed by Cllr R J Chesterton and seconded by Cllr R B Evans)

Reason for decision – the adoption of the Mid Devon Design Guide will help raise design standards in development proposals that are submitted to the Council for determination and will help guide planning decisions made on these. The status as a Supplementary Planning Document gives greater weight to the document as a material consideration in the determination of planning applications.

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

257. **MEASURED TERM MINOR STRUCTURAL WORKS CONTRACT 2020 - 2024 (2-11-22)**

The Cabinet had before it a * report of the Repairs Manager advising Members on the results for the tendering of the Measured Term Minor Structural Works Contract 2020 – 2024 to Council houses and confirm the award of the contract.

The Cabinet Member for Housing and Property Services outlined the contents of the report giving an overview of the work to be progressed and the tender process which had taken place in line with the agreed procedure/criteria

RESOLVED that the new three-year five month Minor Structural Works Contract be awarded to Contractor 4.

(Proposed by Cllr R B Evans and seconded by Cllr D J Knowles)

Reason for the decision: there is a need to confirm the award of the tender so that the specified work can be progressed.

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

258. 19 HIGH STREET, CULLOMPTON (FORMER HARLEQUIN VALET SITE) (2-13-08)

The Cabinet had before it an * update report from the Group Manager for Corporate Property and Commercial Assets on the sale of this property.

The Cabinet Member for Housing and Property Services outlined the contents of the report, highlighting the history of the site and the resolution by the Cabinet to sell the property in April 2020. Due to circumstances the buyer could not proceed with the sale and therefore there was a need to agree how the sale of the property might be progressed

Consideration was given to the impact of the property on the viability of Cullompton High Street and that the sale should be progressed.

RESOLVED the delegated authority be given to the Deputy Chief Executive (S151) in consultation with Cllr Bob Evans (Cabinet Member for Housing and Property Services) and Cllr Andrew Moore (Cabinet Member for Finance) to secure the sale on terms which provide best value to the Council.

(Proposed by Cllr R B Evans and seconded by Cllr C R Slade)

Reason for the decision: the Council does not own the property but there is a need to recover the outstanding debt on the property.

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

259. 3 RIVERS DEVELOPMENTS LIMITED (2-17-49)

The Cabinet had before it a *report of the Chief Executive and a further report of the Acting Managing Director of 3 Rivers Developments Limited providing the monthly update report and a summary of the options explored regarding the future direction of the company and to consider an interim funding request made by the company.

The Cabinet Member for Housing and Property Services answering a question posed in public question time stated that at the inception of the company the Council decided to structure it's property company as a non-Teckal one so that it would not need to be bound by the standard public sector procurement rules. The operational opportunity cost of this decision meant that the Council could not gift work streams to

its own company. However, if (as was legally permissible) it set up an additional Teckal subsidiary this would then be acceptable legally (subject to certain rules). The benefit of this was two-fold, the Council then had a reliable/known developer who could move forward more quickly with developments and the company had a wider portfolio of developments in order to spread risk over.

Cllr B A Moore moved, seconded by Cllr R B Evans that the meeting go into private session to consider an update with regard to the company and to consider a funding request

Therefore under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

Upon a vote being taken, this was **AGREED**.

Following consideration of the recommendations within the report, the meeting returned to open session and

RESOLVED that:

- a) the update from 3 Rivers Developments Ltd be noted;
- b) the funding request for £1.41m, in accordance with the approved capital programme be approved, subject to these (and all subsequent) transactions utilising the newly-commissioned loan agreement templates.
- c) the proposed expenditure to secure legal advice on exploring the advantages and disadvantages of new governance arrangements to include a holding company and Teckal-compliant subsidiary, in order to deliver the most benefits for Mid Devon be agreed. This advice to be brought back to Cabinet as soon as practicable for future consideration.

(Proposed by Cllr B A Moore and seconded by Cllr R B Evans)

Reason for the decision: to provide interim funding for 3 Rivers Developments Limited to enable it to continue its operations and work on specified projects in advance of the submission and consideration of a new business plan in February/March 2021. Further, to approve the funding of legal advice on the advantages and disadvantages of setting up a Teckal subsidiary.

Note: *Report previously circulated.

260. **NOTIFICATION OF KEY DECISIONS (3-29-48)**

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

It was requested that the appointment of a Non-Executive Director be added to the plan inline with the agreed action plan for 3 Rivers Developments Limited.

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

(The meeting ended at 9.33 pm)

CHAIRMAN