

## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **CABINET** held on 3 December 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, R J Dolley, C J Eginton,  
F W Letch, S J Penny, R F Radford, B G J Warren and  
A Wilce

### **Also Present**

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

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Jenny Clifford (Head of Planning, Economy and Regeneration), Jill May (Director of Corporate Affairs and Business Transformation), Darren Beer (Interim Group Manager Street Scene and Open Spaces), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Lisa Lewis (Group Manager for Business Transformation and Customer Engagement), Simon Newcombe (Group Manager for Public Health and Regulatory Services), Matthew Page (Group Manager for Human Resources), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Tristan Peat (Forward Planning Team Leader), Carole Oliphant (Member Services Officer) and Sally Gabriel (Member Services Manager)

## **261. APOLOGIES**

There were no apologies for absence.

## **262. PROTOCOL FOR REMOTE MEETINGS (00-03-12)**

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

## **263. PUBLIC QUESTION TIME (00-03-26)**

The Chairman read a statement and a question on behalf of Mr Quinn referring to Item 11 (Land at Post Hill) on the agenda:

This report proposes that the Council builds 70 properties and asks Cabinet to agree that any new 'Teckal' company would deliver them.

It was only on 29 October that Cabinet agreed expenditure to: "secure legal advice on exploring the advantages of new governance arrangements to include a holding

company and Teckal-compliant subsidiary, in order to deliver the most benefits for Mid Devon". As I understand it, this advice has not yet been received by Cabinet.

Paragraph 3.5 states that to be a Teckal Company, the Council must "exercise a degree of control over the company similar to that exercised over its own departments". It is difficult for the public to understand how the Council would do this.

It seems to me that asking Cabinet to agree to give this development to this Teckal Company, before it has even been formed, is rather like "Putting the Cart before the Horse".

A high value development, like this one at Post Hill, is complicated and will obviously need careful and experienced management.

The projected timetable (at paragraph 11.3) does not seem to give sufficient time for Cabinet to receive and consider the report into a possible 'Teckal' Company and then, if it is approved, to bring the company legally into being and staff it sufficiently for it be able to properly manage the commencement of this development.

My questions are:

When is the report on the possible 'Teckal' Company expected to be brought before Cabinet?

And will this report be 'Open' – to allow for public scrutiny?

The Chairman indicated that a response to the question would be provided when the item was debated.

Mr Cashmore referring to Item 17/18 (3 Rivers Developments Limited) on the agenda stated that: We know that councillors are expected to abide by the 7 Nolan Principles of Local Government.

But were you also aware that council officers, from the (CEO down), as well as being expected to fulfil the terms of their employment contract, are also expected to abide by the 7 Principles of Decision Making? (as found in section 15.2 of your own constitution? 300+pages!). In particular, I draw your attention to para d) there is a presumption in favour of Openness in all decisions. & para g) the giving of reasons for the decision, and the proper recording of those reasons.

Therefore, Does this cabinet not agree with me that we should all be concerned of the motives of any elected councillor or official, (either working as an individual, or as part of a group) who, at face value, appears to be working hard to hide council information from public scrutiny?, - rather than taking every opportunity to publish it?

Last week I used Zoom to speak to the Governance working group, but was surprised to be told that the meeting was being recorded, only for the use of notetaking (!)

As all Mid Devon meetings are now being conducted virtually on Zoom, can you please list any reasons why this council should NOT go ahead and agree to publish ALL their virtual meetings live on YouTube?

This simple step was successfully implemented some months ago by East Devon District Council and I urge you all to have a look to see how it works. It could allow the public to actually see their own councillors at work, either live as it happens, or at any other time. It may also help you to improve engagement with our younger community.

Which now leads to my question regarding 3 Rivers. Does this cabinet share my concerns, that unless it starts to provide far greater transparency regarding the aspirations and plans for 3 Rivers then they should not really be surprised at the growing public disquiet regarding it's shocking performance to date.

Therefore my question is: When does this council expect 3RDL will be able to complete paying off its council loans and start returning a profit to the ratepayers of Mid Devon as originally intended?

The Chairman indicated that a written response would be provided.

#### **264. DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-09-36)**

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

#### **265. MINUTES OF THE PREVIOUS MEETING (00-09-55)**

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

#### **266. REFUSE WASTE OPTIONS (00-10-29)**

Further to a report of the Interim Group Manager for Street Scene and Open Spaces, the Environment Policy Development Group had made the following recommendations that:

- The options in the report be considered; and
- Authority should be given for the Service to complete a trial to a limited number (around 1000) of households for a minimum of three months

The Cabinet Member for the Environment outlined the contents of the report stating that the suggested changes to the current scheme had been discussed with advisors and meetings had taken place with East Devon District Council with regard to the scheme that they were running and consideration of any best practice. Four options had been put forward, this was not about saving money but increasing recycling in line with Government guidelines to recycle 65% of household waste by 2035 and Devon's proposed 60% target by 2025. He outlined the proposed trial which would take place in urban and rural areas (which would include some specific areas that had special issues) and it was hoped that the trial would increase recycling which was cost effective.

Consideration was given to:

- Other districts that had implemented 3 weekly residual waste collections and whether they had fortnightly collections of recycling or whether they had weekly recycling collections
- The need for an additional option to include residual - 3 weekly, chargeable garden waste - 2 weekly, food – weekly, recycling - weekly, with a residual waste - residents' receptacle or sacks, as there was a need to look at all the options for a complete trial. It was agreed that this should be considered as part of the trial.
- The cost implications of the various options
- Whether special circumstances would be considered depending on the number of people/children in a residence
- Capacity to store waste prior to collection
- Whether the amount of waste to be collected would be capped
- How the collection lorries would be used
- The amount of brown bins being stored at the depot
- Opportunities to reduce the current carbon footprint

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

(Proposed by Cllr C R Slade and seconded by Cllr Miss E Wainwright)

**Reason for decision** – there is a need to increase recycling in the District in line with Government guidelines to recycle 65% of household waste by 2035 and Devon's proposed 60% target rate by 2025.

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

## 267. **COMMUNITY HOUSING FUND PROJECT GROUP REPORT (00-37-33)**

Further to a report of the Head of Planning, Economy and Regeneration, the Homes Policy Development Group had made the following recommendation:

Section 11.1 of the Community-Led Housing Fund Guidance and Criteria (Appendix 2), which provides the framework for the allocation of grants, is amended so that the Community Housing Fund Project Group membership includes:

The Cabinet Member for Housing, the Cabinet Member for Planning and Economic Regeneration, the Group Manager for Housing Services, the Head of Planning, Economy and Regeneration and the Housing Enabling and Policy Officer.

The Cabinet Member for Housing and Property Services outlined the contents of the report stating that the report sought to amend the membership of the project group as this followed the Council's housing enabling role being moved from the Housing Service to the Planning Service. He highlighted that for the sake of clarity Appendix 2 would be renamed to Appendix A.

Consideration was given to:

- A request for information with regard to the monies spent from the fund and how they were spent
- The proposed appointment of the new officer

- The membership of the project group and whether elected members should be included
- The need for the new officer (when in post) to promote the scheme

**RESOLVED** that the recommendation of the Policy Development Group be approved subject to the reference to the framework for the allocation of the grants being in Appendix A of the document.

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

**Reason for decision** – to amend the membership of the Community Housing Fund Project Group to reflect that the Council’s housing enabling role has moved from the Housing Service to the Planning Service.

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

## 268. **STRATEGIC PLANNING (00-47-17)**

The Cabinet had before it a \*report of the Head of Planning, Economy and Regeneration setting out options for future joint strategic planning arrangements with partner authorities in the Exeter Housing Market Area and Travel to Work Area.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that recent decisions made by East Devon District Council to withdraw from the preparation of the Greater Exeter Strategic Plan, and subsequently by this Council to prepare a revised joint strategic plan had meant that there was a need to consider alternative approaches for joint strategic planning across the Greater Exeter area.

The purpose of this report was to seek a recommendation from Cabinet to Council to support in principle a preferred alternative approach. This would involve the production of a joint non-statutory plan, to include joint strategy and infrastructure matters, for the Greater Exeter area in partnership with Exeter, East Devon, Teignbridge and Devon County Councils. He outlined options and stated that there was significant benefit in continuing to work jointly on strategic planning across Mid Devon, East Devon, Exeter and Teignbridge. The city and 3 districts had shared housing market and travel to work areas, and there was a need for cooperation to help achieve a coordinated approach over cross-border strategic planning issues and the provision of infrastructure.

A non-statutory joint strategy and infrastructure plan would provide a co-ordinated response to the area’s strategic economic, climate, housing, environmental and issues and help to secure central government investment.

A non-statutory joint strategy and infrastructure plan would be fundamentally different from the Greater Exeter Strategic Plan since it would not be subject to a formal plan making process, and it would not identify strategic site allocations. It would sit alongside the preparation of separate Local Plans prepared by each of the 4 Councils which would provide the statutory policies, development targets and site allocations for each district.

**RECOMMENDED** to Council that: in principle the production of a joint non-statutory plan be supported, to include joint strategy and infrastructure matters, for the Greater

Exeter area in partnership with Exeter, East Devon, Teignbridge and Devon County Councils. This will be subject to agreement of details of the scope of the plan, a timetable for its production, the resources required, and governance arrangements to be agreed at a later date.

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

**Reason for decision** – To recommend to Council the most appropriate way to take forward sub-regional spatial planning and collaboration across the housing market area in light of previous Council decisions on this subject.

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

## 269. **INFRASTRUCTURE FUNDING STATEMENT (00-52-36)**

The Cabinet had before it a \*report of the Head of Planning, Economy and Regeneration requesting approval of the list of Infrastructure items, including affordable housing to be included in the Council's Infrastructure Funding Statement, which was required to be published on the Council's website by 31 December 2020.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that there was a legal requirement for the Council to publish no later than 31 December each year an annual Infrastructure Funding Statement.

This included:

- a report relating to the previous financial year Community Infrastructure Levy (note the Council is not currently a CIL charging authority and so no CIL has been collected),
- a report relating to the previous financial year on planning obligations (Section 106 agreements and Section 278 highways agreements), and
- a report on infrastructure projects or types of infrastructure that the Council intends to fund wholly or partly by the levy (excluding the neighbourhood proportion).

There was a need to seek approval for a list of infrastructure and affordable housing in Appendix 1 (Part B) that the Council intends to fund either wholly or partly by planning obligations and or a Community Infrastructure Levy and the future spending priorities on those.

The list in Appendix 1 (Part B – Infrastructure List) and the future spending priorities had been informed through previous work for the Council's Infrastructure Delivery Plan 2016. This was submitted to the Planning Inspectorate in March 2017 as a supporting document for the examination of the Mid Devon CIL draft charging schedule, and had been prepared in the context of infrastructure needs to support development identified in the recently adopted Mid Devon Local Plan.

The Mid Devon Infrastructure Funding Statement would use the same infrastructure priority criteria to reflect the importance of infrastructure in relation to the implementation of the adopted Mid Devon Local Plan.

The Cabinet Member requested that consideration be given to four amendments to the list of infrastructure in Appendix 1 (Part B- Infrastructure List) that have been suggested by Cabinet Members prior to the meeting:

- (Settlement / area) Rural, (Infrastructure item) Cycle route from Crediton to Sandford to connect to the Boniface Trail, (Type) Transport, (Strategic Priority) Local

The priority is 'local' since the plan and / or site allocations are not dependent on the delivery of this infrastructure item, and it would be beneficial to the local community as will the Boniface Trail

- (Settlement / area) Cullompton, (Infrastructure item) Sporting and leisure facilities, (Type) Community, (Strategic Priority) Local

The priority is 'local' since the plan and / or site allocations are not dependent on the delivery of this infrastructure item, and it would be beneficial to the local community

- (Settlement / area) Cullompton, (Infrastructure item) Improvement of local library services, (Type) Libraries, (Strategic Priority) Local

The priority is 'local' since the plan and / or site allocations are not dependent on the delivery of this infrastructure item, and it would be beneficial to the local community

- (Settlement / area) Cullompton, (Infrastructure item) strategic green infrastructure including public parkland, (Type) Community, (Strategic Priority) Local

The priority is 'local' since the plan and / or site allocations are not dependent on the delivery of this infrastructure item, and it would be beneficial to the local community

Consideration was given to:

- The primary school proposed for the Pedlars Pool site which was actually in the parish of Sandford
- The expansion of Haywards and Landscore Primary schools
- Strategic planning requirements for Crediton and the timetable for work to commence on a masterplanning exercise
- Whether funding could be used to improve existing green infrastructure in Cullompton
- That the infrastructure projects were proposed by area and not parish

**RESOLVED** that the following be approved:

- a) The list of infrastructure and affordable housing in Appendix 1 that the Council intends to fund, either wholly or partly, by planning obligations and / or a Community Infrastructure Levy, and the future spending priorities on these;
- b) The inclusion of Appendix 1 – Infrastructure List in the Mid Devon Infrastructure Funding Statement to be published on the Council's website by 31December 2020 subject to the inclusion of

Settlement / area	Infrastructure Item	Type	Strategic Priority
Rural	Cycle route from Crediton to Sandford to connect to the Boniface Trail	Transport	Local
Cullompton	Sporting and leisure facilities	Community	Local
Cullompton	Improvement of local library services	Libraries	Local
Cullompton	Strategic green infrastructure including public parkland	Community	Local

(Proposed by Cllr R J Chesterton and seconded by Cllr Mrs N Woollatt)

**Reason for decision** – The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 which exercises the powers of Part 11 of the Planning Act 2008 requires in each calendar year a contribution receiving authority to publish an annual infrastructure funding statement. The first annual infrastructure funding statement must be published by 31 December 2020.

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

## 270. **COMMUNITY INFRASTRUCTURE LEVY (1-11-59)**

The Cabinet had before it a \*report of the Head of Planning, Economy and Regeneration considering options for the Mid Devon Community Infrastructure Levy in light of Government consultation proposals to reform the planning system in its White Paper and a recommendation to Council that the Mid Devon Community Infrastructure Levy draft Charging Schedule is withdrawn from examination and is no longer progressed.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that the Government was intent on making fundamental changes to the planning system. This included a proposal to replace the current twin regime of S106 planning obligations and Community Infrastructure Levy with a consolidated national Infrastructure Levy.

The introduction of the reforms would mean that should the Council continue with the examination of its submitted CIL draft charging schedule and progress this to adoption and implement, a CIL regime in Mid Devon would have a limited lifespan. Little if any CIL money was likely to be paid for the first two years, and calculations showed that forecast overall developer contributions through both a CIL and S106



planning obligations for open space for example may be about the same as the forecast potential total S106 planning obligations secured without a CIL in place.

The Council's CIL draft charging schedule and supporting documentation was submitted to the Planning Inspectorate in March 2017 for examination. In September 2019, changes were made to the CIL regulations which removed the restriction placed on the pooling of S106 planning obligations where this was previously a maximum of 5 per project or infrastructure type. The removal of this pooling restriction had given the Council greater flexibility in securing the contributions needed, including where there was no CIL charging schedule in place.

**RECOMMENDED** to Council that the Mid Devon Community Infrastructure Levy draft Charging Schedule be withdrawn from its examination and is no longer progressed

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

**Reason for decision** – In light of updated circumstances and in anticipation of reform, there is now a need to decide whether to proceed with the Community Infrastructure Levy given the pending examination in public of the submitted draft charging schedule.

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

#### 271. **LAND AT POST HILL, TO CONSIDER DEVELOPMENT OPTIONS (1-15-36)**

The Cabinet had before it a \*a report of Deputy Chief Executive (S151) providing options to progress the development of land at Post Hill, Tiverton.

The Cabinet Member for Housing and Property Services provided a response to the questions posed in public question time: he thanked Mr Quinn for his question and stated that he was quite right that a previous Cabinet decision provided for expenditure on advice regarding the possibilities of a Teckal-compliant company. That was why the wording of this evening's report did not assume that such an entity would exist in future and provided for a Cabinet decision to be made based on both possible outcomes.

So to answer Mr Quinn's specific questions; firstly the report was likely to be scheduled to come to Cabinet in January and he believed that the Council's forward plan was being published tomorrow (Friday) confirming this. And secondly, yes this would be listed as an open item.

He then outlined the contents of the report which provided background information with regard to the site and the need for financial diligence to protect the HRA, he felt that Option 4 would be the way forward.

Consideration was given to:

- The need for social housing as outlined in the Corporate Plan
- Funding streams for social housing
- The impact on the HRA
- The percentage of affordable housing on the whole site which was set at 21% and the viability issues which had lead to the figure

- The meaning of affordable housing
- The need for low carbon dwellings
- The housing need in the locality
- A proposal to use infill sites for social housing to be funded by the HRA across the district and not on one site (which would form another report to be presented to the Homes Policy Development Group and the Cabinet)
- Whether to consider a full tender exercise rather than consider the establishment of a Teckal compliant company
- Any Teckal company would be bound by procurement rules and the impact of Brexit on European procurement rules
- Further information required with regard to setting up a Teckal compliant company

**RESOLVED** that:

- 1) Authority be given to submit a planning application, subject to final design and based on:

(iii) Option 4- 70 Affordable Homes

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

- 2) In the event that Cabinet proceeds in future to establish a new company structure, which

- (i) is “Teckal” compliant; and
- (ii) appropriate for the delivery of social/affordable housing

the Cabinet agrees that delivery of the housing will be through that new company, subject to advice received when establishing the new company and any other material factors.

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

- 3) Recommendation 3 within the report be withdrawn following the debate and approval of recommendation 2 and that a further report with regard to the tender exercise for Post Hill, Tiverton be brought before the Cabinet at a future meeting.

(Proposed by the Chairman)

**Reason for decision** – A decision was required on what level and mix of housing would be provided on the recently acquired Post Hill development site and then what would be the most appropriate delivery mechanism to bring this forward.

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

## 272. FINANCIAL MONITORING (2-17-36)

The Cabinet had before it and **NOTED** a \*report of the Deputy Chief Executive (S151) presenting a financial update in respect of the income and expenditure so far in the year.

The Cabinet Member for Finance outlined the contents of the report stating that the financial information provided was to the end of September 2020. The Covid 19 pandemic had continued to have a significant impact on the financial performance of the Council following the first lockdown period. The report outlined the significant variances within the General Fund and that the forecasted General Fund deficit was expected to be approximately £20k.

Consideration was given to the agency costs to cover the vacant Group Manager for Finance post.

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

### 273. **MEDIUM TERM FINANCIAL PLAN (2-20-50)**

The Cabinet had before it a \*report of the Deputy Chief Executive (S151) producing an updated Medium Term Financial Plan (MTFP) which takes account of the Council's key strategies (i.e. the Corporate Plan, Business Plans, Treasury Management Plan, Asset Management Plan, Work Force Plan and Capital Strategy) and demonstrates it has the financial resources to deliver the Corporate Plan. This models potential changes in funding levels, new initiatives, unavoidable costs and proposed service savings.

The Cabinet Member for Finance outlined the contents of the report stating that the main purpose of the MTFP was to show how the Council would strategically manage its finances over the next four financial years in order to support the delivery of the objectives within the Corporate Plan. He stated that we were in uncertain times and that there was huge uncertainty with regard to several funding streams. There were concerns with regard to the ability to balance the budget gap in 2021/22 and savings would need to be identified.

Consideration was given to:

- Whether now was the time to consider growing the commercial property base
- What plans were in place to set a balanced budget for 2021/22
- The public sector pay freeze
- Ideas that were discussed in a budget workshop at the beginning of 2020 would be considered further
- Whether strategic services would need to be cut and consultation that would take place with the public
- The need to consider the Climate Change Declaration and how work with regard to this could be prioritised

**RESOLVED** that the updated Medium Term Financial Plan be noted and the proposed outlined in paragraph 8.2 be endorsed.

(Proposed by the Chairman)

**Reason for decision** – There is a need to show that the Council will strategically manage its finances over the next four financial years in order to support the delivery of the pledges/objectives detailed in the Corporate Plan.

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

#### 274. **PERFORMANCE AND RISK (2-43-05)**

The Cabinet had before it a \*report of the Group Manager for Performance, Governance and Data Security providing Members with an update on the performance against the Corporate Plan and local service targets and any recommendations from the Policy Development Groups with regard to the Corporate Plan performance framework.

Consideration was given to:

- Houses in Multiple Occupation – the number of inspections that had taken place, how many of them had been compliant, how many required action and the number of licences issued or removed

**RESOLVED** that the report be **NOTED** and that the measures suggested for inclusion in the Corporate Plan Performance Framework be approved.

(Proposed by the Chairman)

**Reason for decision** – there is a need to approve the measures suggested to align performance with priorities and targets laid out in the Corporate Plan

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

#### 275. **SCHEDULE OF MEETINGS 2021-22 (2-48-35)**

The Cabinet had before it \* a schedule of meetings for the municipal year 2021/22.

**RECOMMENDED** to Council that the Schedule of Meetings for the 2021/22 municipal year be approved.

(Proposed by the Chairman)

Note: \*Schedule previous circulated, copy attached to minutes

#### 276. **NOTIFICATION OF KEY DECISIONS (2-51-50)**

The Cabinet had before it and **NOTED** its rolling plan \* for January 2021 containing future key decisions.

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

#### 277. **3 RIVERS DEVELOPMENT LTD - UPDATE REPORT (2-54-52)**

The Cabinet had before it and **NOTED** a \*report from the Chief Executive providing an update on current project performance and any key risks.

The Cabinet Member for Housing and Property Services stated that updated information was before the meeting for consideration and would continue to be presented on a monthly basis as agreed.

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

278. **EXECUTIVE FINANCE DIRECTOR AND NON EXECUTIVE DIRECTOR - 3 RIVERS DEVELOPMENTS LTD (2-54-27**

The Cabinet had before it a \*report of the Chief Executive complying with the requirements of the recommendations agreed by the cabinet, Scrutiny and Audit Committees that new Directors be appointed to 3 Rivers Developments Ltd.

It was **RESOLVED** that:

- a) John Riley be appointed to the post of Financial Director
- b) Bill Yardley be appointed to the post of Non-Executive Director

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

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

(The meeting ended at 8.58 pm)

**CHAIRMAN**