

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **SCRUTINY COMMITTEE** held on 14 December 2020 at 2.15 pm

### **Present**

#### **Councillors**

F W Letch (Chairman)  
G Barnell, W Burke, L J Cruwys,  
Mrs C P Daw, Mrs S Griggs, S J Penny,  
B G J Warren, A Wilce, Mrs F J Colthorpe,  
C J Eginton and B Holdman

### **Apologies**

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

E J Berry, J M Downes and R L Stanley

### **Also Present**

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

R J Chesterton, R M Deed, R J Dolley, R Evans,  
D J Knowles, B A Moore and Mrs N Woollatt

### **Also Present**

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

Stephen Walford (Chief Executive), Jenny Clifford (Head of Planning, Economy and Regeneration), Andrew Jarrett (Deputy Chief Executive (S151)), Jill May (Director of Corporate Affairs and Business Transformation), Maria De Leburne (Legal Services Team Leader), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Lisa Lewis (Group Manager for Business Transformation and Customer Engagement), Adrian Welsh (Group Manager for Growth, Economy and Delivery), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Sally Gabriel (Member Services Manager), Tristan Peat (Forward Planning Team Leader), Sarah Lees (Member Services Officer) and Carole Oliphant (Member Services Officer)

## **118 APOLOGIES AND SUBSTITUTE MEMBERS (0.04.41)**

Apologies were received from Cllrs E J Berry, J M Downes and R L Stanley who were substituted by Cllrs C J Eginton, B Holdman and Mrs F J Colthorpe respectively.

## **119 REMOTE MEETING PROTOCOL (0.05.17)**

The Committee had before it, and **NOTED**, the \*remote meetings protocol.

Note: \*protocol previously circulated and attached the minutes

## **120 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0.05.27)**

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

121 **PUBLIC QUESTION TIME (0.05.41)**

The Chairman read out a question submitted by a local resident, Nick Quinn:

**Concerning Agenda Item 7: Decisions of the Cabinet**

I agree with both these Cabinet decisions being called-in for scrutiny.

Though the Monitoring Officer is very much open on the first decision, I also question the basis of the first decision to fix the Post Hill development at 70 Affordable properties of a particular bed/size mix.

There is no evidence in the open report to justify why this particular option was recommended, or should have been accepted. A failure on Openness. The proportions of the agreed property mix do not reflect the proportions of the Registered Housing Applicants which are listed in the report.

Other property mixes, which would be more in proportion to the registered need, and generate more rental income, should have been considered. This decision also fails the Proportionality and Options tests.

I also question the second decision, where the meaning is plainly stated: “the delivery of the housing will be through the new company”.

The Cabinet tried to qualify that statement, by saying that the new company should meet certain conditions and “any other material factors”. But, by not being specific on these factors, this decision also fails the Openness test.

The Monitoring Officer states “the Cabinet must, in any decision, consider all relevant and material factors at the time of the decision” – not later!

It is extremely Relevant and Material that, at the time of the decision, the Teckal Company does not exist - and no advice on creating one had been received by Cabinet.

Councils award their Teckal Companies business on a contract basis. By pre-awarding this development contract to a Company, which they hope to create, I believe Cabinet may be in breach of Council Financial Regulations.

My question is:

Please will Scrutiny Committee pass both these decisions back to Cabinet for further consideration?

The Chairman advised that the question would be addressed at item 7 on the agenda.

122 **MEMBER FORUM (0.08.37)**

There were no issues raised under this item.

## 123 MINUTES OF THE PREVIOUS MEETING (0.08.55)

The minutes of the last meeting were approved as a correct record

## 124 DECISIONS OF THE CABINET (0.09.54)

The Chairman informed the Committee that two decisions made by the Cabinet at its meeting on 3<sup>rd</sup> December 2020 (with regard Land at Post Hill) had been \*called in for consideration by the Scrutiny Committee in accordance with the Council's Constitution. The decision had been called in by Cllrs Barnell, Holdman, Clist and White.

To consider:

### ***Lack of consideration of alternative options;***

- 1. The building of more Social Rented Homes is a key priority of the Corporate Plan recently agreed by Full Council. The development of the Post Hill site presents an important opportunity to build a significant number both of Affordable Rented and of Social Rented Homes in Tiverton and thereby address the local gap in affordability that impacts most on families with a low income .*
- 2. The options presented to and considered by Cabinet included three options:-*
  - a. Option 2-For 50 Social and 20 Affordable Homes*
  - b. Option 3- For 50 Social, 15 Affordable Homes and 5 Self Build Homes*
  - c. Option 4- 70 Affordable Homes*
- 3. The report to cabinet recommended Option 4 on the basis of budgetary considerations. External and expert financial assessments were appended to the report to explain these issues.*
- 4. Cabinet were asked only to consider options that were posed at opposite ends of a continuum of possible mixes of tenure. It should also have considered other options that may well have presented very different assessment and comparisons of affordability.*
- 5. There were other options that were not presented that would have allowed Cabinet to consider and compare the financial implications of different mixes or proportions of Affordable rented and Social rented housing.*
- 6. Such options might have included, say, a 35/35 split between affordable rented and social rented homes and also a 20/50 split. Either option would still yield a significant addition on the Council's stock of Social Rented Housing.*
- 7. Finally the report to Cabinet presented only a single set of proposals on the numbers of housing units of a particular size. This proposal did not relate to the analysis of need for particular size of dwelling as presented in the report. No other options were considered even though different options would have a significant impact on costs and forecast returns.*
- 8. We are, therefore asking that Cabinet consider other options for the mix of Social Rented and Affordable Rented Homes and also for the mix of the size of units. This will allow Cabinet to carry out more reasonable analysis and comparisons of both cost and returns.***

### ***Pre-determination of a future decision of Full Council***

*1) A decision to set up a TECKAL compliant company to deliver some or all of the Council's Housing services is a major step that has yet to be made and that will require a decision of Full Council. This decision will need to be supported by a full business case setting out elements of the Councils services that are to be managed and delivered by the SPV and include an assessment of the risks and opportunities involved.*

*2) The range of services that might be transferred to the proposed TECKAL company might include the full range of the Councils Housing services. On the other hand it might be limited to include only the remit to develop new affordable and social rented housing.*

*3) The Cabinet decision that the delivery of 70 units of affordable rented housing will be through any new TECKAL company clearly pre-empts a future decision of Full Council on the scope of the MDDC services and activities to be transferred to such a Company.*

***4) This decision is unnecessary and unconstitutional. Cabinet could have decided instead to recommend that the delivery of the Post Hill homes be through a future TECKAL company.***

The Lead Member for the call in explained to the Committee that his belief was the options considered by the Cabinet on 3<sup>rd</sup> December were not based on evidence of need and that the whole Post Hill site being allocated for affordable housing was a failure of evidence. He explained that his evidence was based on studies of affordable housing and was based on household income and gave a split on affordable social housing. He stated that the Council was failing to keep pace with right to buy and that it had been haemorrhaging social housing over a 9 year period. He stated that he felt that the infill sites available were not sufficient.

Another Member, who had also signed the Call in, stated that his concerns were that there was not enough social housing in Devon and that there were too many second home owners. He felt that the Council was not keeping up with social housing needs.

In response to a question asked to the Lead Member for the call in about his previous involvement in deciding the housing mix, he explained that he had been on a previous working group looking at the options. He explained that at that time he was in favour of social housing dependant on the need and affordability.

The Lead member for the call in explained that he felt the Cabinet were very keen to make decisions on a future company which did not yet exist and therefore they had pre-determined the outcome. He felt that this was unconstitutional.

Another Member, who had also signed the Call in, stated that the Cabinet had made an assumption that everything would go to plan and that a Teckal company was going to be formed.

The Cabinet Member for Housing and Property Services, addressing the concerns raised stated that the design options for the Post Hill site were not binding and were subject to a final design which would explore a mix of housing to be delivered. He stated that a feasibility study and options would be required before a final decision was made. He explained that Officers preparing the report on options, received by the Cabinet, had taken advice from Members, including the previous Cabinets working group, with regard to options presented.

The Group Manager for Property Services and Commercial Assets explained to the Committee that there had been a Working Group set up by the previous Cabinet to consider the housing mix for the Post Hill Development and that it had been decided by that group not to present too many options to Cabinet. It was also agreed to complete further analysis on two Options (2&3) including financial costings that have been provided in supporting Part 2 documentation and based on the housing mix agreed by the previous Working Group, with one additional Option (4)

Consideration was given to:

- The views of the Members who had called in the decision to the Scrutiny Committee
- The advice of the Monitoring Officer
- The views of the Cabinet Member for Housing and Property Services
- The views of the Member of the Public who had submitted questions

It was therefore **RECOMMENDED** that the Cabinet: reconsiders its decision on the delivery of Post Hill homes by a possible Teckal Company and that it instead substitutes it for a recommendation to Full Council.

(Proposed by Cllr G Barnell and seconded by Cllr L Cruwys)

6 votes for, 6 votes against – Chairman’s casting vote

**Reason for the Decision: To allow for the creation of a Teckal Company to be a decision considered by full council**

Notes:

- i.) A proposal requesting the Cabinet to consider other options for the mix of social rented and affordable rented homes and also for the mix of the size of units, this will allow Cabinet to carry out more reasonable analysis of the comparisons of both cost and returns **was not supported**.
- ii.) \*Report previously circulated, copy attached to minutes

## 125 **CHAIRMAN'S ANNOUNCEMENTS (1.08.55)**

The Chairman wished all Members and Officers Seasons Greetings and thanked them for civilised debates.

## 126 **CABINET MEMBER FOR PLANNING AND ECONOMIC REGENERATION (01.10.28)**

The Committee had before it, and **NOTED**, a \*report of the Cabinet Member for Planning and Economic Regeneration outlining the key area’s within his portfolio.

He explained that the report was long but this was necessary due to the variety of work that his portfolio covered.

Committee Members asked a variety of questions and gave consideration to:

- The increase in unemployment claims from 820 to 2055 between March and September 2020

- Members were hugely impressed with the department's ability to get on top of new priorities due to the pandemic
- The 1700 business grants that had been issued totalling in excess of £20m
- The business case for the Hydro Mills project was underway
- Advice from the Environment Agency had informed the Tiverton hydro proposal
- The purpose of the Hydro Mills project
- The Tiverton Town Centre Masterplan was due to be brought to Cabinet in March after further consultations with the Town Council, businesses and Ward Members
- What happened to the budget for a Town Centre Manager (the Deputy Chief Executive S151 would provide an update to Members)
- The Cullompton relief road was due to be completed within the next 2-3 years
- A number of large developments which had been granted permission that had not yet been started would be investigated by the Development Delivery Advisory Group (DDAG) to try to understand the reasons for delay
- The introduction of the Self Build Policy should increase interest in the scheme
- The Cabinet Member had investigated the lack of admin support for the Planning Enforcement team and was looking to review the processes used. Members would need to decide if they wanted to allocate a budget for Planning Enforcement admin support during the budget setting process
- The Council would publish its S106 records of funds received and spent for 2019/2020 by 31<sup>st</sup> December 2020
- The planning performance targets were set by Government and were reported to the Planning Committee on a quarterly basis

Notes:

- i.) Cllr W Burke left the meeting at 16.01pm
- ii.) Cllr G Barnell left the meeting at 16.09pm
- iii.) \*report previously circulated and attached to the minutes

**127 UPDATE IN THE CUSTOMER EXPERIENCE WORKING GROUP RECOMMENDATIONS (02.23.14)**

The Group Manager for Business Transformation and Customer Engagement provided Members with a verbal update on the status of the recommendations made by the Customer Experience Working Group as follows:

1. Business Case for CRM – Officers had engaged with the market and a prior interest notification had been issued. This had resulted in a number of demonstrations being received on the various offerings available. Officers, Cabinet Members and the Chairman of the Working Group had been involved in scrutinising these and deciding what kinds of activities were required in the final product. A lot of work was going into the business case as a new CRM system would be a significant investment for the Council
2. Systems work to full capacity – This was on hold until a decision had been taken with regard to a new CRM

3. Customers at the heart of the Council – Officers were planning some workshops in the New Year which would be open to Members to discuss their experience and explore their requirements. Officers would engage with the public via a small group of tenants, residents and businesses
4. Customer Survey – This was in progress but had been limited as there were restrictions on face to face contact. Online and telephone surveys were being carried out and this would run until the end of December 2020
5. Re-establishing a dedicated Planning department phone service – there had been a reduction in staff and this would be re-addressed after the current ongoing recruitment campaign had been completed
6. Phone waiting times – this had improved by 15% but was still below target. The main issues were that some experienced call centre staff had been redeployed to assist other departments cope with an increase in duties due to the pandemic

The Chairman of the Working Group thanked the Officer and explained that what she had seen so far had been promising.

The Officer advised that a further update would be provided in 6 months time.

#### 128 **PERFORMANCE AND RISK (02.40.04)**

The Committee had before it, and **NOTED**, the \*Performance and Risk report presented by the Group Manager for Performance, Governance and Data Security.

She outlined the contents of the report and explained that there was an additional appendix of measures against the new corporate plan which had been agreed by Cabinet.

In answer to a question the Officer explained that the percentage of complaints resolved would be adjusted upwards once the complaints had been closed.

The Committee then discussed issues with regard to anti social behaviour in the Tiverton Multi Storey Car Park and the Officer explained that although the risk was monitored it wasn't reported to Members unless the risk was scored 10 or above.

Note: \*Performance and Risk report previously circulated and attached to the minutes

#### 129 **FORWARD PLAN (02.57.57)**

The Committee had before it, and **NOTED**, the \*Forward Plan.

Note: \*Forward Plan previously circulated and attached to the minutes.

#### 130 **SCRUTINY OFFICER UPDATE (02.58.26)**

The Member Services Manager on behalf of the Scrutiny Officer provided the following update:

- The Committee held a Work Programme planning workshop on 16 November. A note of the session has been sent to Members of the Committee. Members

had a good discussion and agreed that, alongside the current Working Group's we have on Menopause and Planning Enforcement, the Committee will look into further work around Anaerobic Digesters and rural broadband; and that a regular update on Customer Service will be brought to the Committee.

- An informal meeting of the Planning Enforcement Working Group was held two weeks ago to discuss Terms of Reference. The Group will meet formally for the first time in January.
- The Menopause Working Group will bring its final report to the February Scrutiny Committee.

### 131 **UPDATE ON SCRUTINY RECOMMENDATIONS (02.59.28)**

The Member Services Manager on behalf of the Scrutiny Officer provided the following update:

- At the Work Programme planning session Members requested regular updates on recommendations that the Committee has made. The Committee has heard today the update on the Customer Experience Working Group Recommendations. The Committee will receive a further on this work in another six months' time.
- The other recommendation made by this Committee was in July, it said: 'It was RECOMMENDED that the Housing Infrastructure Funding risks were investigated by the Audit Committee'.
- At the November meeting of the Audit Committee this was one of the risks that the Committee discussed, in particular around infrastructure delivery and why the mitigating actions have remained the same for some time. This is now being reviewed by Officers.

### 132 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (03.00.29)**

No additional items were identified.

(The meeting ended at 5.16 pm)

**CHAIRMAN**