

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 8 November 2021
at 2.15 pm

Present

Councillors

B G J Warren (Chairman)
G Barnell, E J Berry, Mrs F J Colthorpe,
Mrs S Griggs, P J Heal, F W Letch, S Pugh,
R F Radford and Mrs E J Lloyd

Apologies

Councillor(s)

L J Cruwys and A Wilce

Also Present

Councillor(s)

Mrs C P Daw, R M Deed, R Evans and R L Stanley

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Richard Marsh (Director of Place), Maria De Leiburne (Operations Manager Legal and Monitoring), Jason Berry (Economic Development Project Manager), Nick Sanderson (Managing Director of 3 Rivers Developments Ltd), Clare Robathan (Policy and Research Officer) and Sally Gabriel (Member Services Manager)

Also in

Attendance:

Nick Sanderson and John Riley (3 Rivers Developments Limited)

78 VICE CHAIRMAN FOR THE MEETING (00-03-56)

In the absence of the Vice Chairman, the Chairman requested that a member of the committee act as Vice Chairman for the meeting.

It was **AGREED** that Cllr P J Heal act as Vice Chairman for the meeting.

79 APOLOGIES AND SUBSTITUTE MEMBERS (00-04-12)

Apologies were received from Cllrs: L J Cruwys and A Wilce.

80 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-04-42)

Members were reminded of the need to make declarations where appropriate.

81 PUBLIC QUESTION TIME (00-05-00)

Dr Bratby referring to Item 11 on the agenda stated:

Some of you may be aware that I have been examining the anaerobic digester industry in Devon since the application for the Tiverton Energy Centre was first

proposed in 2009. The paper by Councillor Barnell makes proposals for an inquiry, the third proposal in the paper being to examine the business structure, funding, history and impacts of the Bio Energy Industry in Devon including the history of Planning applications. Hopefully by now you will be aware from the two reports circulated before the meeting that this work has already been done by a group of experts.

I welcome the proposal in Councillor Barnell's report. Firstly, can he say what the ultimate purpose or outcome of the inquiry is likely to be and on what timescale? Apart from making recommendations, will it actually result in any changes being made?

Secondly, a report was produced in August 2018 by a Scrutiny Committee Working Party on the subject of Anaerobic Digestion. It made three recommendations, but to members of the public it appears that nothing has changed since that report was issued and the AD industry has carried on regardless. Do you think that the results of this inquiry will result in a better outcome for the long-suffering public?

Cllr Barnell stated that he would respond during the debate on the item.

The Chairman indicated with regard to the second question that he had read through the 2018 report, whether any proposed inquiry would provide a better outcome, he did not know but it was hoped that any outcome would be something that would make a difference.

The Chairman read a set of questions from Mr Cashmore (speaking as a member of the public) again referring to Item 11 on the agenda:

My name is Roger Cashmore; I am the Vice Chair of Newton St Cyres Parish Council and a member of the Exe Valley Residents Association. I am also one of a growing army of disgruntled residents also scrutinising the working practices of this local Devon AD industry.

I would have loved to speak personally but unfortunately I am under the drill at the dentist.

I am grateful to Cllr Barnell for proposing this subject for consideration and can confirm that, once set up, there are large numbers of highly qualified witnesses, specialist briefing papers, reports and FOIs, etc. that will be made available to the committee.

Local accountants, for example recently confirmed that one local operator is in debt to the tune of over £60million, another recent AD insolvency of over £40million repaid a measly 1.5p in the pound back to the tax payer?. Another interesting fact is the yearly distance associated with just moving feedstock & digestate to a single Devon AD plant, is actually the equivalent of driving a heavily laden diesel HGV twice round the Earth!

This business is neither sustainable nor green. It generates miniscule amounts of some of the most expensive energy in the world. We can and must do so much better

Rather than wait for all the other agencies to wake up and do their job there are a few simple local planning policy changes that this council could support and implement now. Therefore please answer the following simple questions:-

- 1) When is this council actually going to start to rigorously police and enforce its own existing planning conditions? And how do they intend to do it?
- 2) Can you confirm that this council has a robust process capable of confirming to the public that these AD operators are paying the correct levels of business rates?
- 3) Rather than having to submit FOIs, is there any reason preventing this council from insisting AD operators submit monthly production reports, rather than quarterly in arrears?, and then from actually publishing these monthly productions figures on the internet, in order to permit closer public scrutiny?

It will be so easy for scrutiny to conclude we “don’t have the resource” or that it is “all the fault of Westminster”. But I would remind councillors this business has been running in Mid Devon for well over 7 years now, and some members actually voted against their planners’ advice in order to set it all up.

The Chairman indicated that a written response would be provided to Mr Cashmore.

82 **MINUTES OF THE PREVIOUS MEETING (00-12-23)**

The minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

83 **DECISIONS OF THE CABINET (00-13-37)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 26 October 2021 had been called in.

84 **CHAIRMAN'S ANNOUNCEMENTS (00-13-49)**

The Chairman informed the meeting that:

- The report of the Planning Enforcement Working Group had yet to be considered by the Cabinet – it was hoped that this would be on the agenda for 30 November meeting.
- He intended to bring forward item 11 on the agenda (Bio Energy Industry Proposal Form) to be considered after the Broadband update.

85 **BROADBAND UPDATE (00-15-39)**

The Chairman welcomed Keri Denton and Matt Barrow from Devon County Council to the meeting inviting them to provide an update on the rollout of broadband across Mid Devon.

Both officers addressed the meeting and provided a presentation which highlighted the work of the ‘Connecting Devon and Somerset’ team:

- The objectives of the Connecting Devon and Somerset programme which was a local authority led partnership

- The overall funding of the phases of the programme and the funding partners
- 6 new contracts had been let to further the work that had already taken place
- The percentage of properties already reached in Mid Devon and those that were planned
- The percentage of properties (4%) which would be 'very hard to reach'
- Maps highlighting the network clusters that required provision and the steps that needed to be taken before the work could actually take place
- The coverage for Lot E (Palmerson Park area of Tiverton) which had been identified by a question from a councillor with regard to the price of any connection. The meeting was informed that the connection fee would be £99 in line with all providers.
- Willand, Uffculme and Hemyock had also been highlighted – Gigaclear were putting in broadband in parts of those villages but that there were still spots that were not going to receive any broadband provision from this company – the meeting was informed that some companies did cherry pick their locations and that was the reason why CDS were addressing those issues.
- The work of Airband in the Shobrooke and Stockleigh Pomeroy area – it was suggested that rural coverage would be going into those areas
- Wholesale v retail and which companies provided what services
- The very hard to reach properties process was explained some of which maybe the last to be connected
- The recent Government Consultation and the need to encourage more collaboration of the market space
- The additional options available to cover those very hard to reach properties

Discussion took place with regard to:

- Individual very hard to reach properties with Mr Barrow suggesting he take up individual issues with councillors
- The voucher scheme that may be used to help the very hard to reach properties
- Connection costs
- How individual properties that were in the very hard to reach category be supported

The Chairman thanked both officers for their attendance.

86 **BIO ENERGY INDUSTRY PROPOSAL FORM (00-50-04)**

The Committee had before it a *work proposal form on the Bio Energy Industry and were requested to decide whether the item should be added to the work programme.

The Chairman stated that the proposals before the committee were a general overview of issues with regard to the bio energy industry and that no particular applications could be discussed at this time, there was a need to protect members of the Planning Committee whose future decisions with regard to any particular application must not be compromised.

Cllr Barnell outlined the contents of his paper highlighting the issues across the county and that those issues needed to be addressed by an inter authority inquiry led by local authority Scrutiny Committees. The impact of the industry on the local

communities and the planning system needed to be highlighted and addressed. He explained the need for the industry to be regulated and the need to involve other agencies in this work. There was a need for an independent investigation to inform the policies of local planning authorities in Devon.

With regard to the questions asked in public question time, he stated that there were no guarantees but that a coordinated approach was required.

Consideration was given to:

- The lack of coordination nationally, good use of AD infrastructure could help the climate situation and the need for joined up recommendations so that Government could be lobbied effectively
- How the AD position had been discussed for many years and the need to involve other local authorities now

It was **AGREED** that:

1. An inter-authority inquiry into the Bio-Energy Industry in Devon led jointly by local authority Scrutiny Committees be progressed.
2. This inquiry to be jointly commissioned by the Scrutiny Committees of those Devon Planning Authorities that are willing to take part. This work is not something that can be done effectively by a single authority.
3. The Inquiry examine the business structure, funding, history and impacts of the Bio Energy Industry in Devon including the history of Planning applications.
4. The Inquiry examine the adequacy of the national and local framework of regulation and policies and make recommendations for changes to that may be required including:-
 - local and national planning arrangements and policies, including the possibility of joint planning approval and enforcement.
 - regulation of environmental and health impacts
 - highways management policies
 - energy tariff arrangements
5. The work of commissioning and overseeing this Inquiry is led by a committee of elected members chosen from each of the participating authorities.

Further **AGREED** that the initial task would be for the Chairman of the Scrutiny Committee to write to his counterparts from across the county including Devon County Council to seek their involvement in the inquiry.

(Proposed by Cllr G Barnell and seconded by Cllr Mrs E Lloyd)

Notes:

- i) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded;
- ii) *Work Proposal Form previously circulated, copy attached to minutes.

87 FORWARD PLAN (1-16-59)

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

Consideration was given to the various reports within the plan which referred to Cullompton and how they were inter-related. The outcome of the bid to the Housing Infrastructure Fund (HIF) was the first stage and this information would be brought before Cabinet on 30 November. It was **AGREED** that no further action be taken until the outcome of the HIF bid was known.

88 3 RIVERS DEVELOPMENTS LTD BUSINESS PLAN (1-28-51)

The Committee had before it a *report with regard to the 3 Rivers Developments Limited Business Plan

The Deputy Chief Executive (S151) outlined the contents of the initial report stating that the report would also be considered by the Audit Committee prior to discussion at Cabinet on 30 November 2021. He highlighted an error on page 31 of the pack with regard to the loans outstanding for 2019/20 and explained the financial transactions highlighted within that table.

The Chairman indicated that discussion with regard to this item, may require the Committee to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Committee would need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

RESOLVED that 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)

(Proposed by the Chairman)

Having considered the business plan, the Committee returned to open session and made the following recommendation to Cabinet advising it that:

Members had raised questions with regard to the availability of certain sites for development, the need for the report on the possible creation of a Teckal company to be considered and noted that the financial risk of the company would be considered by the Audit Committee

(Proposed by the Chairman)

Notes:

- i) Cllrs E J Berry and Mrs F J Colthorpe requested that their abstention from voting be recorded;
- ii) *Report previously circulated.

89 **SCRUTINY OFFICER UPDATE (1042-59)**

The Scrutiny Officer provided the following information:

- Members had received the information requested on complaints
- The Spotlight review with regard to Motion 564 had taken place on Thursday 28 October, it was felt that the day had been a success, one more meeting was required before the presentation of the final report to the Committee in January.

90 **WORK PLAN (1-44-02)**

The Committee had before it, and **NOTED**, the *Scrutiny Committee Work Plan.

Consideration was given to the Neighbourhood Policing item that was programmed for December, it was reported that Cllr Wilce was in conversation with police officers and that his feedback was awaited, therefore this item would be delayed. The update on the Community Safety Partnership would also be delayed, therefore it was agreed that the Cabinet Member for Continuous Improvement be invited to the December meeting (no written report was required).

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

(The meeting ended at 4.45 pm)

CHAIRMAN