

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 12 July 2022 at 10.00 am

Present

Councillors

R M Deed (Leader)
C J Eginton, R J Chesterton, Mrs C P Daw,
D J Knowles, B A Moore, S J Penny and
C R Slade

Also Present

Councillors

J Buczkowski, L J Cruwys and B G J Warren

Also Present

Officers

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Richard Marsh (Director of Place), Maria De Leiburne (Operations Manager for Legal and Monitoring), Paul Deal (Corporate Manager for Finance), Tristan Peat (Forward Planning Team Leader), Christie McCombe (Area Planning Officer), Sarah Lees (Member Services Officer) and Jessica Rowe (Member Services Apprentice)

21. **APOLOGIES**

No apologies were received, however, it was noted that Cllr D J Knowles attended the meeting via Zoom.

22. **PUBLIC QUESTION TIME**

The following questions were received from members of the public:

Mr Paul Elstone:

The following questions all fully relate to Agenda Item 6, HIF Funding and A361 Junction:

QUESTION 1

Are MDDC Cabinet Members aware that in an email dated 4th December 2020 and from the former MDDC Head of Planning to the MDDC Cabinet Member for Planning and Regeneration and the MDDC Leader the Head of Planning states

“DCC does not wish to go out to tender for the HIF works until the land exchange has taken place between the landowner (Chettiscombe Trust) and developer (Redrow). This has not yet occurred”

QUESTION 2

Were the MDDC Cabinet Member for Planning and the MDDC Leader both MADE FULLY AWARE that the land deal between the owner and Redrow Homes was completed on the 18th December 2020 or some 20 months ago. THAT THERE WERE NO LONGER ANY CONSTRAINTS and the Phase 2 junction tender process could proceed at pace.

QUESTION 3

Can the Cabinet Member for Planning advise if the MDDC Ward Councillors for Lowan and Cranmore were FULLY CONSULTED about the HIF Funding situation and similarly to the MDDC Cabinet Member for Planning and the MDDC Council Leader in December 2020. This including reference to the “deal breaker” comment made by the former Head of MDDC Planning.

QUESTION 4

Can MDDC Director of Place fully explain and in a detailed written response why it has taken so VERY LONG to progress the tender process. This including timelines. A tender process given the excessive delays has seen SUBSTANTIAL COST INCREASE as a result.

QUESTION 5

Why has it taken so long to bring this critical situation concerning the HIF Junction Funding before MDDC Cabinet and for MDDC member plus public scrutiny and challenge.

QUESTION 6

Given how critical the Tiverton EUE Phase delivery timelines were to ensure no loss of the HIF Funding and construction of the junction. Can the MDDC Cabinet Member for Planning and who is also a Devon County Councillor please provide A WRITTEN RESPONSE providing full details including timelines of his efforts to accelerate the CRITICAL tender process including any discussions with DCC.

QUESTION 7

Will the MDDC Leader and MDDC Cabinet Member for Planning now consider the FULL circumstances surrounding the requirement to suspend the Tiverton EUE Phase 2 Junction tendering process. That there is full cause to implement a detailed and expert external investigation.

This especially given that both MDDC Major Road Infrastructure projects are in disarray i.e., the Cullompton Relief Road and the Tiverton EUE Phase 2 junction. This due it is strongly believed to MDDC failure to manage these projects in line with reasonable expectations. A situation that is causing MDDC increasing reputational damage.

Mrs Hannah Kearns:

The following questions all fully relate to Agenda Item 6: HIF Funding and A361 Junction

QUESTION 1

Are MDDC Cabinet Members aware that a Devon County Council Cabinet briefing paper dated 14th October 2020 written in relation to the Tiverton EUE Phase 2 Junction, made FULL reference to a total cost estimate of £10 million of which £8.2 million was a to be a Housing Infrastructure rebate?

Why did MDDC Executive Officers not allocate the £1.8 million additional funds in ANY public facing budget for 2020 or 2021 or going forward?

QUESTION 2

What is the current cost estimate for the Phase 2 Junction? The MDDC Cabinet briefing paper fails to reveal this without any apparent reason.

QUESTION 3

What is the value of the monies received from the Housing Infrastructure Fund already spent in preparation for the Phase 2 Junction? HIF funds appear to be at risk of needing to be returned due to suspension of the project, is this correct?

QUESTION 4

What is the value of the funds from the developers S103 advance contributions already spent in preparation for the Phase 2 junction?

QUESTION 5.

The MDDC Director of Place has stated that the Governments HIF programme only runs to March 2024, with no replacement scheme in evidence.

Therefore given that MDDC Officers have stopped the Phase 2 Junction Tendering process what is the QUANTIFIED RISK PERCENTAGE for MDDC loosing access to the full Housing Infrastructure Funding REBATE of £8.2 million? A situation that SHOULD it happen, would clearly pile further and very substantial additional pressure on MDDC to deliver the project.

QUESTION 6

MDDC budget spreadsheets evidence that they repeatedly allocate substantial funds ,running into the tens of millions of pounds, to 3 Rivers Development Ltd. Funds which are used to build speculative housing projects carrying both risk in terms of delivery and commercial risk. Why are MDDC repeatedly able to allocate these substantial funds yet are unable to fund key infrastructure projects? Key projects which will provide very major enhancements to the Mid Devon Community.

QUESTION 7

Why does the Cabinet Meeting briefing document only make reference to the Housing Development, and not to the Tiverton EUE Industrial Site? Particularly considering that it is this industrial Site that will likely see the greatest benefits from the Phase 2 Junction by removing heavy commercial traffic away from both Blundells School Campus and Halberton Village. Similarly, from the Hartnoll Farm Business Park and Red Linhay Anaerobic Digester which are becoming increasingly industrialised.

The Leader stated that the questions would be answered when the item was reached on the agenda.

23. **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

Members were reminded of the need to make declarations of interest if and when necessary.

24. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the previous meeting were approved as a correct record and signed by the Leader.

25. **CORPORATE PLAN MID POINT REVIEW (00:12:00)**

The Cabinet had before it, and **NOTED**, a report * from the Chief Executive considering the comments and feedback from various Council committees in order to determine what, if any, changes ought to be proposed to the Council's Corporate Plan as part of its mid-point review.

The Leader briefly outlined the contents of the report and a short discussion followed with regard to the consideration of playground equipment specifically for disabled children or those with additional needs. More information regarding the specifications needed would be sought.

Note: * Report previously circulated; copy attached to the minutes.

26. TIVERTON HIF/A361 JUNCTION (00:16:00)

The Cabinet had before it a report * from the Director of Place informing Members of the latest position regarding the Tiverton HIF/A361 junction scheme and seeking a decision regarding the next steps.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that Members would be aware that the Tiverton HIF scheme related to the delivery of the second set of slip roads at the new junction on to the A361 and that DCC were undertaking a procurement exercise on behalf of Mid Devon District Council to seek to identify a contractor to deliver the works. At the time of the August 2021 Cabinet report, it was reported that the cost of works could exceed the available budget and this shortfall was reported as being in the region of £1.9m.

DCC had now completed the tender exercise and the tender results had been assessed. Unfortunately, whilst the tendering exercise had been successful in attracting tender responses, the returns had come in at levels which significantly exceeded the available project budget and went beyond the £1.9m shortfall previously foreseen.

Discussions had taken place between key stakeholder organisations regarding the potential to find additional funding to support delivery of the scheme, but unfortunately it had not been possible to identify the funding at this time.

Clearly, this remained a very important project and so officers would continue to work on this project, in conjunction with key stakeholders including Homes England, as quickly as possible in order to seek to identify opportunities to enable delivery of this scheme as soon as practicably possible.

The following answers were given in relation to each of the questions raised during Public Question Time:

Responses to questions from Mr Elstone

1. Question 1:

Members were aware of the position in relation to the land transactions, as appropriate.

2. Question 2:

Members were kept informed of progress in relation to the scheme and the tender exercise.

3. Question 3:

As stated previously; Cabinet Members had been kept informed of progress on the project and previous Cabinet reports had provided updates in relation to the project.

4. Question 4:

The Tender exercise had been run by Devon County Council on behalf of MDDC and had followed public procurement regulation requirements; the processes for which are often lengthy and time-consuming.

Cost increases had been seen across many infrastructure projects throughout the country and so the cost increases were not unique to this project, or a result of the process that had been undertaken.

5. Question 5:

This item has been brought to Cabinet as quickly as possible following earlier conversations with key partners to consider the scope to secure the additional funding to support delivery of the programme and accounting for purdah requirements.

6. Question 6:

Yes I am a Devon County Councillor but this project is not within my remit as a Devon County Councillor. Conversations are ongoing and the project is moving forwards.

7. Question 7:

Neither project is in disarray. However, both are absolutely dependent upon external funding mechanisms to support delivery – as has been detailed in other Cabinet reports. By their very nature, these are not within the council's direct control. But just as we achieved delivery of the off-slip at Tiverton EUE well in advance of the private sector development coming on stream in the first phase, it remains the ambition of the council to achieve this second phase of the junction in advance of Area B coming forward. In Cullompton, we have managed to secure a commitment to the reopening of the railway station, and are now within touching distance of achieving a relief road that the community has been seeking for decades. If such projects were easy they would have been done years ago, but this council is not shying away from the challenges and is doing all it can to bring these much-needed projects to fruition for the good of our communities.

Responses to Hannah Kearns questions

1. Question 1:

I was not aware of this briefing paper, but was aware with the position of the project as a result of our own internal MDDC briefings.

MDDC has never budgeted for capital investment in the delivery of the junction beyond the amount provided for through the Housing Infrastructure Fund. It would not be typical for a district authority of the size of Mid Devon to fund strategic infrastructure works such as a new junction on a major A-road or motorway.

2. Question 2:

The cost estimate is not set out so as to avoid revealing cost information in the public domain which could prejudice any future retendering exercise.

3. Question 3:

Technically, Homes England are able to seek repayment of the grant funding where the project does not proceed to completion, but this is at Homes England discretion. Homes England is fully engaged in this project and so is aware of the position. It should also be noted that an indemnity exists in relation some of the most recent elements of this expenditure.

4. Question 4:

No S106 funds have been deployed yet.

5. Question 5:

The formal decision to stop the current tendering exercise will be sought from Cabinet today. No quantified risk analysis has been run in relation to this project and I struggle to see the value in seeking to quantify a specific risk percentage in this scenario.

6. Question 6:

The Council's activity in relation to 3Rivers is wholly different to the position in relation to the funding and delivery of highways infrastructure. The Council, like many others, seeks to undertake development activity through its development company in order to generate profit to the Council which the Council is then able to utilise to support the provision of services. Infrastructure development on the other hand involves significant financial outlay and risk for the Council over the long term where repayment of the investment is dependent upon many factors and is uncertain. The different types of investment activity are therefore wholly different.

7. Question 7:

There is no particular reason as to why the report does not mention the employment land. It equally does not mention other scheme components, but this does not mean that they are any less important or that they have been overlooked or omitted for any reason.

RESOLVED that:

- a) That the current tender process (being run by Devon County Council on behalf of MDDC) be stopped and that tenderers be notified that, owing to forecast construction costs exceeding the available budget, the Council will not be seeking to let a contract at this time.
- b) That Cabinet instructs officers to continue to investigate additional funding opportunities and scope for project value-engineering, working with key project partners including Devon County Council and Homes England and that a further report be brought back to Cabinet as soon as possible.

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

Reason for decision:

In 2019, Mid Devon District Council entered into an Agreement with Homes England, formally securing £8.2m of Housing Infrastructure Fund (HIF) grant money to support delivery of a new junction to the A361.

Since that time, work on the EUE scheme, junction and linking road has progressed. Devon County Council has also undertaken a competitive tendering exercise in relation to the second phase of junction works which would see the delivery of the second set of slip roads and overbridge of the junction scheme, along with further works. It was anticipated that the cost of these works may exceed the available budget owing to recent cost inflation and limited contractor capacity and, based on Devon County Council estimates, the August 2021 Cabinet report projected this possible shortfall as £1.9m.

The County Council's tendering exercise has now identified a preferred bidder, however the total cost significantly exceeds the previous estimated shortfall of £1.9m. This is due to significant increases in construction sector costs and the need for an increased contingency to reflect the current contractor marketplace and the volatile prices of steel, concrete and aggregate.

Since identifying this increased shortfall, officers have been working to consider ways in which this shortfall could be mitigated and have also sought to identify further funding to support delivery.

Further work is therefore required to consider options to support delivery of the scheme and further discussions are required with partners, including Homes England and DCC, around ways in which the project might be funded and delivered.

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

27. CREDITON NEIGHBOURHOOD PLAN (00:26:00)

The Cabinet had before it a report * from the Director of Place seeking approval for the recommended modifications made in the Examiner's Report and seeking approval for the Crediton Neighbourhood Plan to proceed to referendum.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report and stated that Crediton Town Council had been preparing a Neighbourhood Plan following the designation of the neighbourhood area in July 2014. The neighbourhood area covered the parish of Crediton. The preparation of the neighbourhood plan had included consultation on a pre-submission draft plan in 2019 and consultation on a regulation 16 publication plan in late 2021. The Neighbourhood Plan had since been examined and Mid Devon District Council received the final Examiner's report on 13th May this year.

There was now a need for the Council to consider the Examiner's recommended modifications and reach a decision as to whether the Crediton Neighbourhood Plan with the Examiner's recommended modifications and a typographical correction be agreed, and that the plan proceeds to a local referendum.

Should the recommendations to Cabinet be agreed then once that decision comes into effect, a Decision Statement will be published and a local referendum will be arranged in accordance with the relevant regulation requirements. It is likely that this local referendum would take place in late September or early October this year. Following the local referendum, if more than 50% of those voting, vote 'yes' then the Neighbourhood Plan will come into force as part of the statutory development plan for the Crediton area. The Neighbourhood Plan must be 'made' within eight weeks of the local referendum through its formal adoption by the Council.

The Planning Policy Advisory Group had noted the recommendations of this report at its meeting on the 17th June.

RESOLVED that

- a. The Examiner's modifications be agreed, and that subject to these modifications the Crediton Neighbourhood Plan is determined to meet the Basic Conditions (as defined in Town and Country Planning Act 1990 Sch 4B) and other legislative requirements;
- b. The Decision Statement attached at Appendix 2 be approved; and
- c. The Crediton Neighbourhood Plan (at Appendix 3) subject to the Examiner's modifications and the typographical correction to the title of Map 5 Views, proceed to a local Referendum based on the boundary of Crediton Neighbourhood Area.

(Proposed by Cllr R Chesterton and seconded by Cllr Mrs C Daw)

Reason for decision:

The Examiner has undertaken a fair examination of the submitted Neighbourhood Plan, properly considering all duly made representations.

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

28. UK SHARED PROSPERITY FUND (00:30:00)

The Cabinet had before it a report * from the Director of Place seeking Member approval for the submission of an Investment Plan for Mid Devon under the Government's UK Shared Prosperity Fund.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report and stated that the Investment Plan needed to be submitted to Government by 1st August 2022. The report stated that this was part of a 3 year funding plan and as part of the Government's Levelling Up agenda and replaced the European Structural Funds that were previously used for economic development and community cohesion. Mid Devon had been allocated £1,064,159 as a formula grant but must submit an investment plan. There had been a rigorous process of data analysis and stakeholder engagement to identify the most appropriate interventions and projects. The attached appendices to the report identified the logic framework behind each of the proposals which fell under the three pillars of the Shared Prosperity Fund:

- Communities and Places
- Supporting Local Businesses
- People & Skills

Since the report had been written the Government had reprofiled the funding, weighting the budget towards the third year. The annual split was now as follows:

2022/23	12%	£129,146
2023/24	25%	£258,291
2024/25	63%	£676,722

The exact figures would need to be adjusted as negotiations with partners were finalised before the bid was submitted.

Consideration was given to:

- Whether the same amount of funding had been allocated to other similar authorities.
- The number of deserving causes within Mid Devon.
- Whether the Council was able to meet the timetable set out within the Investment Plan.
- The fact that the amounts quoted may change further going forwards but the aim to support businesses, communities and people would remain as a key priority.
- The Economy PDG had met informally to discuss the bid and the proposed aims and it had been very supportive.

RESOLVED that:

- i. The investment priorities set out in the Shared Prosperity Fund Investment Plan and the level of proposed investment in each priority area be approved.

- ii. Delegated authority be given to the Director of Place (in consultation with the Portfolio holder for Planning and Economic Regeneration) to finalise the investment plan and submit the bid on behalf of the Council.

(Proposed by Cllr R Chesterton and seconded by Cllr A Moore)

Reason for the decision:

Under the UK Shared Prosperity Fund, the Government has allocated £1,064,159 over a three year period to Mid Devon, to support economic development and community cohesion under its 'Levelling Up' agenda, subject to the approval of a locally agreed Investment Plan.

The funding will help deliver projects which contribute towards meeting objectives within both the Council's Economic Strategy and its Corporate Plan 2020-24.

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

(ii) The Leader thanked the Policy Development Group and the Scrutiny Committee for their considerations towards the Corporate Plan Mid Point Review and the UK Shared Prosperity Fund.

29. SOUTH WEST MUTUAL BANK UPDATE (0042:00)

The Cabinet had before it, and **NOTED**, a report * from the Deputy Chief Executive (S151) providing an update on the formation of South West Mutual.

The Cabinet Member for Finance outlined the contents of the report and stated that as previously noted progress had been slowed down by Covid19 and legal issues surrounding setting up a new bank. Work had been undertaken to review the options for setting up the bank and a new gradual approach and perhaps pragmatic way to proceed had been identified. The new Agroecology Fund would be launched this financial year, however attracting capital investment was still proving difficult. Progress had been slow but a new direction of travel was being implemented.

Discussion took place regarding:

- The frustrations involved in this not having moved further on despite Covid. It was confirmed that these concerns would be reflected back to the Managing Directors at the next meeting of Finance Managers.
- The importance of an official banking network in Cullompton and the need to progress this as soon as possible.

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

30. NOTIFICATION OF KEY DECISIONS(00:46:00)

The Cabinet had before it and noted its rolling *plan for August 2022 containing future key decisions.

The clerk informed the meeting of one additional item to the plan.

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

(The meeting ended at 10.48 am)

CHAIRMAN