

# Public Document Pack

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **CABINET** held on 6 September 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

### **Councillors Also**

**Present:** B Warren, B Holdman, L Cruwys, S Clist, G  
Barnell, J Buczkowski

### **Also Present**

**Officers:** Stephen Walford (Chief Executive), Richard  
Marsh (Director of Place), Maria De Leburne  
(Operations Manager for Legal and Monitoring),  
Paul Deal (Corporate Manager for Finance),  
Simon Newcombe (Corporate Manager for  
Public Health, Regulation and Housing), Tristan  
Peat (Forward Planning Team Leader) and  
Clare Robathan (Policy and Research Officer)

## 46. **APOLOGIES**

There were no apologies for absence.

## 47. **PUBLIC QUESTION TIME**

The following questions were received from members of the public:

Paul Elstone:

### Question 1

During the July 2020 Cabinet Meeting the MDDC Leader stated “it was time to Lift the Veil” on 3 Rivers. Since then, the MDDC has continued to make full use of PART 2 constraints. Constraints that act as an iron curtain preventing an expected level of public transparency. More than two years later and with increasing MDDC financial exposure, the justification for this additional 3 Rivers loan is being hidden behind secret reports. The public are not permitted to see these documents and not even know their titles! Will the Council Leader please do what he can to “Lift the Veil” of secrecy now?

### Question 2

Given that the MDDC loan agreements with 3 Rivers are on an individual project basis and not on a group basis, how much of the additional funding request of £2.3 million is allocated for the St Georges Court Tiverton Development?

### Question 3

Cabinet are being asked to lend an additional £2.3 million to 3 Rivers when MDDC's own risk reports show 3 Rivers as a high lending risk. Are Cabinet Members aware that an external Credit Report available in the public domain dated July 2021 also deemed 3 Rivers a high credit risk?

### Question 4

How can MDDC Officers and Cabinet Members reconcile the following two statements?

#### Statement 1

Grant Thornton state in the latest MDDC Audit: Report (Page 9) "For MDDC we have concluded that the greatest risk of material misstatement relates to Group Revenue". "We have therefore identified the occurrence and accuracy of 3 Rivers trading income as a significant risk of misstatement and a key audit matter".

#### Statement 2

Cabinet Members briefing notes (Page 396) and in justification for the additional funding of £2.3 million states the following: "strengthened expected sales income of the properties which should allow for net profit and loan repayment profiles in line with previously declared expectations"

### Question 5

Have Simpkins Edwards, as the 3 Rivers newly appointed internal auditors, completed a full Audit on the 3 Rivers business. If so, has their Audit Report received full oversight by Grant Thornton as the MDDC Auditors and has it also been made available to MDDC Councillors?

### Question 6

It appears the St Georges Court impairment amount of £790,000 is being written off over a period of 5 years. Can it be confirmed this is not the case and that the impairment will not be written off by MDDC at any time?

### Question 7

Can it be confirmed that no portion of the additional St Georges Court funding now requested will also be added to the impairment amount going forward?

### Question 8

In terms of 3 Rivers revenue stream predictions, are Cabinet Members aware of how many of the 39 St Georges Court properties have been sold off plan?

This given the latest completion date being given is just 2 months away, November 2022. My understanding is the number is very low, perhaps even with just one flat having been reserved but not confirmed as sold.

Nick Quinn

#### Question 1

In paragraph 3.2 of this report, the recharges paid to the Council are shown as £0.387M. But, the figure previously given to Audit Committee and Cabinet, in November 2021, for recharges already received by the Council was £0.452M (this was confirmed in a clarification report to Scrutiny Committee in February 2022). This inconsistency raises yet another question on the reporting of financial transactions with the Company.

Why is the Recharges Paid figure shown in this report, £65,000 lower than the amount previously reported, as already received, in November 2021?

#### Question 2.

In paragraph 3.3, the net benefit of 3RDL is calculated as £1.52M.

However, this amount has only been achieved by subtracting a very reduced impairment figure. All amounts which have been, or will be, "written-off" are a loss to the Council; so the whole of the impairment figure should have been subtracted from the total benefit calculation.

Why has the full impairment of £790,000 not been subtracted in the calculation of net benefit?

#### Question 3

I am very concerned with the amount of public money that is being put at risk in loans to 3RDL. A further loan of £2.3M, when added to the £19.66M already promised, results in a massive exposure of £21.96M.

Have the Council's Audit Committee, or External Auditors, been consulted on this loan; or whether an exposure risk of nearly £22M with this single Company, is appropriate, advisable or acceptable?

Hannah Kearns:

#### Question 1

In the report, it says the Cabinet have received regular project updates from 3 Rivers which have identified additional funding pressures on two (2) of its current live schemes. I have looked through past Cabinet papers and the last regular update was in April. I cannot find any mention of pressure on live schemes.

Will the Cabinet please provide the details of when these regular updates were presented to Cabinet and indicate which sections refer to specific additional cost pressures on these two schemes?

## Question 2

The report gives various reasons for why 3 Rivers needs an additional loan of £2.3 million, including increases in price of material and labour. But it also talks about hostage pricing. If 3 Rivers are being held hostage, then it seems that 3 Rivers did not put proper contracts in place, leaving them open to unreasonable increases. As usual, it seems their only way out of their mess is to come to the inexhaustible money tree that is this Council.

Why did 3 Rivers not have in place proper contracts for these two developments to stop such a large additional, hostage, costs being demanded to achieve completion?

## Question 3

A Part 2 paper is said to set out how this £2.3 million will be used to complete the two current sites. I take it that these would be St Georges Court and the development at Bampton (a total of 48 properties). An extra £2.3 million across 48 properties means an extra £48,000 cost per property.

As this Part 2 paper is hidden from the public, will Cabinet please state whether the asking price of these properties will bear an additional £48,000 or will the Company have to bear this additional cost?

## Question 4

The report says that the Council 2022/23 budget includes a sum of £0.578 million for the repayment of interest and recharges. With the recent rises in Interest rates, 3 Rivers are now paying 6.25% on loans of £15 million (soon to be £18 million if this report goes through). Interest rates and consequential charges will very likely to rise significantly before year end and into 2023.

If the Cabinet is going to grant the request for a loan of £2.3 million, will Cabinet assure the Public that 3 Rivers will only use this money to pay for materials and work to complete these two sites and that none of it will be used to pay interest and charges back to the Council?

## Question 5.

The report proposes to use of £0.58 million previously agreed for projects. The funding allocation agreed in previous Business Plans was for specific projects and it has not been made clear how these projects will be affected. No proper business case has been put forward for this and the 3 Rivers Business Plans will not be revised until this November.

Can the additional loan of £0.58 million be set aside at this meeting, so that it can be considered properly as part of the revised 3 Rivers Business Plan in November?

The Leader thanked the Questioners and noted that answers to these questions would be given at an appropriate time during the meeting.

## 48. **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

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

#### 49. **MINUTES OF THE PREVIOUS MEETING**

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

#### 50. **MID DEVON AS A TRAUMA INFORMED COUNCIL**

The Cabinet had before it, and noted, a report from the Corporate Manager for Public Health, Regulation and Housing that provided information to Members about Mid Devon District Council (MDDC) becoming a Trauma Informed Council, with a trained trauma aware workforce, as requested by the Community Policy Development Group (PDG) held on 22 March 2022. It followed a recommendation of the PDG Working Group on Community Safety made at the meeting that the PDG investigate adopting this informal status and strategic approach as a Council.

The Cabinet Member for Community and Well Being outlined the following:

- There was a risk that if not approved MDDC services would not suitably or satisfactorily accommodate the needs of our service users.
- External training costs for the scheme were: £9000 for year 1 and £3000 for year 2, but there was an option for in-house trainers which would cost £2700 per person (x3 = £8100).
- To become Trauma Informed (TI) provided a wider synergy with the Council's Corporate Plan and Priorities which included: 'Support and grown active tenancy engagement' which ensured inclusivity of the most vulnerable within our tenants and communities; 'Promote new/more integrated approaches to promoting good health and healthier living, especially in the context of planned new developments'; 'Seek opportunities to address public health issues and disparities to improve the health and wellbeing of everyone in Mid Devon' and 'Promote community involvement in Council activity'.
- That there were potential benefits some of which included: individuals and communities would feel that they were being listened to; that positive relationships would be formed and the Council/individuals are trusted and that people would feel safe and supported.

The Leader thanked the Cabinet Member for their presentation and opened the floor for questions, which were as followed:

- The Leader asked if there was a figure in mind in terms of total costs, to which the Corporate Manager for Public Health, Regulation and Housing explained that if in-house trainers were used then the overall costs would be circa £20,000.
- The Leader also asked if this cost would be placed on the general fund or the HRA fund. The Corporate Manager for Public Health, Regulation and Housing explained that it was designed for all services where relevant and would benefit from the training. The exact split between the general fund and HRA fund would need to be determined.

- A Cabinet Member raised support for this training and applauded this direction. They also raised that trauma does not go away but was managed and if support could be given to those individuals then that could only be a good thing.

**RESOLVED to recommend to Full Council: That**

1. The degree of investment the Council would be required to make towards becoming a Trauma Informed (TI) Council as set out in the report.
2. A stepped approach is adopted, as set out in Annex 1.

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

**Reason for Decision:** There would be a risk that if this approach was not approved that MDDC services would not suitably and satisfactorily accommodate the needs of our service users. In addition, adoption of a TI approach supported the Council's desire to be progressive and committed to providing a high quality and sustainable service. This modification to a TI service delivery linked closely with the promise for local engagement and participation, supported good health (because of improved understanding of barriers), promoted equality of service, and supported the values that are important to the Council.

**51. RECOMMENDATIONS OF THE ANTI-SOCIAL BEHAVIOUR WORKING GROUP**

The Cabinet had before it, a report from the Policy and Research Officer which outlined the review undertaken by the Community PDG Working Group on anti-social behaviour (ASB).

The Officer in brief raised the points highlighted below:

- This was a report from the Community PDG working group on anti-social behaviour. The working group looked to ensure that the Council had a targeted and effective response to ASB in the District.
- The report found that the Council had comprehensive and effective policies on ASB, and that officers were adept at tackling and resolving issues.
- The Mid Devon Senior Inspector, Insp Leitch had agreed to provide monthly newsletters, and a Member Briefing was due to take place on 29 September 2022.

The Leader thanked the Officer for their presentation and opened the floor to questions which were as followed:

- The Leader commended the good work that had been carried out by the working group of the Community PDG. In addition, he raised the importance of being kept up to date and that these monthly updates and bi-annual briefings be maintained.

- A Cabinet Member asked if the Senior Inspector had already agreed to that a monthly newsletter be provided to Members and how had the Police responded to this report and its recommendations. To which the officer explained that the Senior Inspector was happy to provide these monthly updates as well as all Member briefings every 6 months.

**RESOLVED:** That

1. That Members of the ASB working group would be consulted on the review of the Housing ASB policy (due to take place this year, and to be incorporated into Neighbourhood and Community Standard Policy) through an informal, in-depth discussion with the Corporate Manager for Public Health, Regulation and Housing and other officers.
2. Information around ASB and how to report it would be clearly communicated to Members and the public.
3. The Mid Devon Senior Inspector would be requested to provide Members with a monthly update on policing in the District and consideration be given to other ways to engage with members.
4. The Community Safety Partnership (CSP) review the Community Trigger process.

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

**Reason for decision:** A key priority for the Council was to promote sustainable and prosperous communities. The impact of ASB could cause distress and suffering for victims, and was a key concern for Mid Devon residents.

**52. MID DEVON AIR QUALITY SUPPLEMENTARY PLANNING DOCUMENT**

The Cabinet had before it a report from the Director of Place which sought approval for the draft Mid Devon Air Quality Supplementary Planning Document (SPD) for Public Consultation.

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report and stated that:

- Following the Council's adoption of the Mid Devon Local Plan in July 2020 there has been a need to prepare a new Air Quality Supplementary Planning Document. This SPD will provide further guidance and information about how local plan policies (and the development plan as a whole) in relation to air quality will be applied and interpreted. While the SPD will not form part of the adopted development plan, it will be capable of being a material consideration in determining planning applications where air quality is relevant.
- A draft Air Quality SPD has been prepared by consultants. It is aligned with the current National Planning Policy Framework, and aims to provide a consistent approach to assessing air quality impacts from planning proposals, and to encourage early engagement in the development process. The SPD will assist developers in determining when an air quality assessment is

required for a new development, provide guidance through the emissions and air quality assessment procedures, and identify suitable mitigation measures to be included at the planning stage.

- The Council will be able to use the guidance to sustain and contribute towards the compliance with national air quality objectives, with consideration given to the presence of Air Quality Management Areas (AQMAs) in Crediton and Cullompton, and the cumulative impacts from individual sites in local areas.

The draft Air Quality SPD is structured into a three stage process:

- The first stage is to classify the development as having a small or large impact. This will include consideration of whether the planned development is within, near to, or will likely have an impact on an AQMA, and will identify what actions are required to assess the new development. This will range from 'no action required' to 'air quality impact assessment required'.
- Stage 2 sets out how to assess and quantify the impact of the development on local air quality.
- Stage 3 determines the mitigation to be applied.

The draft Air Quality SPD has been 'screened' for the purpose of Strategic Environmental Assessment and Habitat Regulations Assessment, and no requirement has been identified for a full Strategic Environmental Assessment, or Appropriate Assessment.

The Planning Policy Advisory Group (PPAG) considered the Air Quality SPD at its meeting of 1<sup>st</sup> August 2022 and has noted its content. The PPAG has requested that a non-technical guide is prepared and is made available as part of, and to assist, the consultation on the Air Quality SPD. This request forms part of the recommendations that are before the Cabinet.

Should the recommendations be agreed then once that decision comes into effect the SPD will be subject to a public consultation exercise of at least 6 weeks. Once the consultation has ended and all comments have been taken into account, the final version of the Air Quality SPD and a statement of public participation will be presented to a future meeting of the Cabinet with a recommendation to adopt the document as a SPD.

The Leader thanked the Cabinet Member for their presentation and opened the floor for questions, which were as followed:

- A Cabinet Member raised that this would have a positive environmental impact.
- A Cabinet Member also added that they too supported the recommendations and that a non-technical guide would be welcomed.

**RESOLVED:** That

1. The draft Mid Devon Air Quality Supplementary Planning Document (comprising Appendix 1 to this report), the Strategic Environmental Assessment Screening Report (Appendix 2 to this report) and the Habitat Regulations Assessment Screening Report (Appendix 3 to this report) be approved for public consultation.
2. That delegated authority be given to the Director of Place in consultation with the Cabinet Member for Planning and Economic Regeneration to finalise the material and arrangements for consultation, including a non-technical guide for the Air Quality SPD.

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

**Reason for Decision:** The Air Quality SPD would provide guidance on the Mid Devon Local Plan 2013-2033 policies on air quality. The document would reduce the risk of costs awarded against the Council where decisions are based on its content. It would help deliver the Corporate Plan objectives on Environment and Community. Finally, it would help minimise the impact development would have on climate change and supported the Council's commitment to achieving net zero carbon emissions by 2030.

**53. TIVERTON NEIGHBOURHOOD PLAN - DECISION ON EXAMINERS REPORT**

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

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report and stated that:

- Tiverton Town Council has been preparing a Neighbourhood Plan following the designation of the neighbourhood area in November 2018. The neighbourhood area covers the parish of Tiverton. The preparation of the neighbourhood plan has included consultation on a pre-submission draft plan in 2021 and consultation on a regulation 16 publication plan in early 2022. The Neighbourhood Plan has since been examined and Mid Devon District Council received the final Examiner's report on 27<sup>th</sup> July this year.
- There is now a need for the Council to consider the Examiner's recommended modifications and reach a decision whether the Tiverton Neighbourhood Plan with the Examiner's recommended modifications and some typographical corrections be agreed, and that the plan proceeds to a local referendum. This forms the basis for the recommendations that are before the Cabinet.
- 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 November this year. Following the local referendum, if more than 50% of those persons voting, vote 'yes' then the Neighbourhood Plan will come into

force as part of the statutory development plan for the Tiverton area. The Neighbourhood Plan must be 'made' within eight weeks of the local referendum, which will be through its formal adoption by the Council.

- The report sets out in more detail the outcome of the examination and the process for the Council making a decision and the options available.
- The Planning Policy Advisory Group has noted the recommendations of this report at its meeting on the 1<sup>st</sup> August.

The Leader thanked the Cabinet Member for their presentation and opened the floor to questions which were as followed:

- A Cabinet Member asked if a date had been decided for a full council meeting. To which an Officer noted that a date was yet to be confirmed.
- A Cabinet Member noted that they thought it would never get to this stage and that officers had done an excellent job and that this positive progress would support relations with Tiverton Town Council.

**RESOLVED:** That

1. The Examiner's modifications (Table 4) and correction of errors (Table 2) be agreed, and that subject to these modifications the Tiverton Neighbourhood Plan be determined to meet the Basic Conditions (as defined in Town and Country Planning Act 1990 Sch 4B) and other legislative requirements;
2. The Decision Statement attached at Appendix 2 be approved; and
3. The Tiverton Neighbourhood Plan (at Appendix 3) subject to the Examiner's modifications and correction of errors, proceeds to a local Referendum based on the boundary of the Tiverton Neighbourhood Area.

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

**Reason for Decision:** If the Tiverton Neighbourhood Plan be approved by referendum, it would form part of the statutory development plan for Mid Devon and the strategy for guiding new development in the district, allocated sites for housing and economic development, the provision of infrastructure, as well as policies for the protection of the environment and managing development. The plan would help meet the Corporate Plan priorities: 'Homes', 'Environment', 'Community' and 'Economy'.

#### 54. **FINANCIAL MONITORING**

The Cabinet was given a verbal update from the Cabinet Member for Finance who raised the following:

- Overall, the forecast outturn had worsened across the General Fund & HRA, since the last update.
- The biggest movement from P3's forecast was in respect of the forecast Pay Award. From a budgeted 2%, to the Q1 value of 3%, the Employer's Body

offer had been fully included. It was reiterated that it was £1,925 per FTE, or 10.4% on the lowest salary band to a circa 3% for Corporate Managers. It had been estimated to be an additional £ 0.5M. It was noted that the offer may or may not be accepted, so there remained a risk that the figure could go higher before the year end.

- Current general inflation pressures threatened the Council, utility costs were the most significant pressure. However, the Q1 report assumed a significant increase per pessimistic forecasts so there was no reason to make changes at this point. Another reason for the continued strategy was that the Council had pre-purchased energy contracts so that near-term costs were controlled. In addition, fuel prices had eased since Q1, which reduced the forecast overspend.
- In terms of resources, recruitment remained a tough challenge. Consequently, the Council continued to rely heavily on agency staff in key areas of planning, waste and street scene. Whilst salary underspend balanced agency overspend to some degree, the net is generally unfavourable compared with the budget.
- On income, cost of living pressures continued for local residents and businesses which impacted the Council indirectly. As noted in the Q1 report, Council Tax and Business Rate collection performance remained depressed. Similarly, leisure and parking income remained below budget and was still lower than pre-covid. However, there were areas where income was better than budget, for example in planning, recycling sales and trade waste.
- Costs would be limited where possible by stopping, pausing, economising, or slowing down. Consideration may need to be given to vacancy management processes, with resources being the biggest budget item. However, it was acknowledged that it would be unlikely that this will be sufficient to compensate for the pressures faced by the Council and noted that a combination of Government intervention and use of Reserves was almost inevitable.
- Budget preparation was underway and that these impacts would be reflected in the Medium Term Financial Plan due to Cabinet on 4 Oct 2022.

**RESOLVED:** That the update be noted.

#### 55. **3 RIVERS DEVELOPMENT LIMITED - FUNDING REQUEST**

The Cabinet had before it a report from the Deputy Chief Executive which sought approval for a funding request from 3 Rivers Development Limited.

The Cabinet Member for Finance who raised the following:

- This report and associated recommendation is for Cabinet to authorise an increase to the current loan agreements to 3RDL of £ 2,280,784. This is for 3 specific purposes: to deal with projected overspends on the 2 active projects at St George's Court and Bampton, to increase the working capital in the business, and to allow the business to work on alternative prospects following

the revised Treasury guidance on out-of-District projects. It is important to stress that these increases *do not* breach the overall funding envelope agreed within the Council's budget, in fact, far from it. Rather it reflects a pragmatic rescheduling of finance arising from the impact of external factors beyond the business's control.

- That the lending envelope approved by full council was £19.66m Lending envelope for 2022/23. The request for an additional £2.3m would put the total projected spend at circa £12.7m, £7m under the enveloped budget.
- Regular updates to Cabinet have highlighted the inflationary cost pressures on the business arising from materials and labour challenges in various guises. These have had an inevitable impact on the 2 live projects, driving these loan increase requests. On the other hand, the housing market in the region has been vibrant, reflected in an increase in sale prices. Overall, project outturns, assuming somewhat pessimistic sales forecasts, remain broadly the same. Full details are in the Part 2 element of the report.
- Both these projects fit within Treasury guidance, meeting MDDC policy to provide housing and regeneration in area. As the Lender, the Council was interested in risks and returns on its capital investment. Were Cabinet not to approve the loan increases, to cease funding the projects prior to completion as some propose, there would be a sudden and significant threat to the Council's investment. By carefully proceeding, by contrast, there is no notable change in Council capital risk by increasing loan value, while interest returns remain very beneficial to overall Council finances, particularly noting my previous report.
- It has always been the goal for the business to be a long-term net positive contributor to the Council's finances whilst fulfilling policy objectives. The change in Treasury guidance earlier this year brought an unwanted change to the business's geographical ambit and forced the abandonment of several prospects one of which was very advanced. As, in the true sense of the words, a going concern, the business must refocus on a revised pipeline of work. A sum of £580k was sought to explore new sites, as set out in the Part 2 part of the paper, to make up for the loss of a number of opportunities. As such this is no more than a redirection of existing budget allocation.
- Section 3 of your report provides an overall summary of the Council's financial position with regard to the business, indicating a healthy return on the investment to date. Risks inevitably remain, but governance is strong and the last Council external audit was positive.

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

Responses to questions from Nick Quinn included:

Answer to question 1:

A change in reporting of VAT, so that we now show net figures rather than gross, plus Recharges in this particular case since November 2021. This change has been reported previously.

Answer to question 2:

That impairment and the way it has been calculated for these figures is shown in the report, and that the impairment is being charged over a 5 year time frame in accordance with accounting practice. As the report clarifies 40% of the capital loan impairment has therefore been properly included along with the full working capital loan impairment.

Answer to question 3:

This is a question of principle rather than the specific figures. The established process is that the annual Business Plan for 3 Rivers is reviewed by Audit before seeking Cabinet approval. The finance to support the Business Plan then forms part of the Council's Budget agreed by Full Council prior to the start of the financial year. This is the fully approved public money funding envelope within which 3 Rivers operates. These additional loans for specific projects and working capital, as I have shown, fall well within that agreed funding envelope, the individual justification having been set out in the paper. External audit has specifically looked at current governance arrangements for lending to 3 Rivers and has expressed a positive view of what we do.

Responses to questions from Hannah Kearns included:

Answer to question 1:

These updates were included within commercially confidential part 2 reports since April and is not unusual for Cabinet Members to discuss in a more informal manner the status of 3 Rivers on a regular basis.

Answer to question 2:

The report cites "some sense of hostage pricing" as the last of 6 reasons for cost increases. This is a standard industry term reflecting the need to pay higher material prices and casual labour rates to secure supply in the current tight market. In this, 3 Rivers is not alone. It is certainly not a reflection on the professional contracts that exist with a range of sub-contractors and suppliers.

Answer to question 3:

Some of that £2.3m figure was working capital and so was not directed into projects. On whether the company or properties will bear the costs, it's actually a mix but the paper really states the former, it says: "Countering this is strengthened expected sales income of the properties which should allow for net profit and loan repayment profiles to be in line with previously declared expectations." As I have already noted revised sales income is based on prudent assessments by professional agents.

Answer to question 4:

The business draws down loans within the agreed facility incrementally to meet project requirements, they don't get it all upfront. The Interest Rate applied is fixed at the point of drawdown. Therefore the assumption on which the questioner's statement is made is incorrect and over-assesses interest charges and the business's exposure. The loans being requested reflect total project costs including interest and working capital.

Answer to question 5:

The request is to reallocate funding from a generic approval for future development projects. Given mandatory changes that restrict lending to in-area, some of those projects can no longer be pursued. This proposal uses some of the released funding to establish an enabling fund to identify and assess new, replacement projects. For the business to continue to be viable a pipeline of future projects is essential in a fast-moving and competitive market: delay will hamper the business.

Responses to questions from Paul Elstone included:

Answer to question 1:

2 years is a long time, the situation then, was what it was and was fully addressed at Cabinet at the time. It resulted in 33 actions to be taken; they were taken. And then the decision of Council was that we continued to proceed with 3 Rivers. So the fact that comments that were made 2 years ago, that were accurate, but life moves on, we do not have time to keep going back over the centuries as to what we said previously. We are where we are now.

Answer to question 3:

When they learnt that they had restrictions in terms of geography for their future projects they looked elsewhere, but needless to say as a start-up company in their current position there's no surprise whatsoever that it's a high credit risk. That is why the council is funding it and is very mindful with strong governance in place.

Answer to question 5:

It was agreed relatively recently that the company has their own auditors and completes an audit to be presented to the Council's auditors and that this is in process.

Answer to question 6:

St George's Court had already been discussed, the impairment, and as mentioned previously that was in accordance with accounting practice.

The Cabinet Member for Finance noted that questions not answered at the meeting would be answered in writing.

The Leader thanked the Cabinet Member for their presentation and opened the floor to questions, which were as followed:

- A Cabinet Member asked if 3 Rivers had a solid business plan and a safety net in place for emergencies. It was explained that plans were set for a year and noted that circumstances could change, for example when sites change. The plans looked at individual projects and noted that each business case had a degree of uncertainty but a reasonable amount of contingency was in place.
- Concern was raised that the Council was a bottomless pit that supported of 3 Rivers financially, to which it was reassured that a pragmatic stance needed to be taken and that the Council would be at more risk financially should 3 Rivers not be funded and specific projects be approved.

- Asked how confidence could be shown in the company, to which it was explained that a sound and professional level of governance was in place and that 33 actions were established to support this.
- When commercial funding was raised it was asked why 3 Rivers were approaching the Council and were there plans for 3 Rivers to apply for commercial funding. It was explained that it was difficult to get lending at a competitive rate when compared to what the Council could provide. In addition, it was noted that once the company was more established it could be considered that the company sought commercial funding when required. Clarification was sought after over commercial funding to which it was highlighted that the Council received interest on the loans it provided to 3 Rivers.
- A Member raised concern over public confidence as well as Member confidence and highlighted that the risk assessment could not be found within the report presented to Cabinet and clarification was wanted in regards to what the risk assessment advice was and why this had not been presented to the Scrutiny and Audit Committees.

In addition, clarification was wanted as to when the business plan would be presented and highlighted that Cabinet had previously agreed not to finance projects outside of the district boundary.

In response to the questions asked, it was explained by the Cabinet Member for Finance that new guidance had been received and emphasised that the Council were not able to instruct 3 Rivers where to develop and were not able to lend the funds for projects outside the district as requested at that time. It was noted that a correction would be made to the wording at 2.2 of the report. The revised business plan was due to be presented to Cabinet on 1 November 2022.

In addition, The Cabinet Member for Finance highlighted that risk was involved with any commercial venture, this had been mitigated through discussions and meetings that had taken place alongside strong governance and external audits. It was noted that the controls in place were strong and that there would be risk in a competitive market. Finally, that public concerns would be alleviated as much as possible through professional mitigating actions.

- A Member raised that the public facing report was where confidence was either won or lost. Reports from architectural journals and Grant Thornton reports had shown examples of company failures. They highlighted concerns that the report was incomplete.

The Leader reminded Members to remain within the scope of the report presented to Cabinet. Questions from Members continued as followed:

- A Member was invited to speak who raised concern over that how scrutiny and audit had been handled with regards to this decision and noted that due to commercial sensitivity, certain information had been limited to the majority of Members. It was noted that the current business was potentially void due to a

number of material changes that surrounded the company's circumstances and viability.

In addition, the business plan was due in the summer of 2022 but this had been delayed. A key governance control had been confirmed that a review of any business plan had to go through the Audit committee before it could be considered by Cabinet, this included amendments to an existing business plan.

It was argued that Cabinet were supporting a funding request without the support of a current business plan that had been scrutinised by the Audit Committee and urged that a decision be deferred until an up to date business plan had been scrutinised.

The Leader emphasised that if there was doubt over the decision made by Cabinet, the decision could be called in to scrutiny. The Cabinet Member for Finance added that although elements of the business plan were no longer valid, which was due to a reduction in business operations, had not meant that the business plan was void. It was also reassured that particular elements of the business would remain in the revised version which included the report presented to Cabinet. Finally it was confirmed that the business plan would go through audit.

- A Member was invited to speak who highlighted that local site availability had not been mentioned in the report. Stated that looked outside the district due to availability which was a risk issue.

The other issues was the future profitability of the company with no analysis of the forecasts for this company. The last forecast had shown that breakeven was expected to be in 2023/24.

It was crucial that the extension of the cash that been proposed that linked to other conditions that had not been mentioned in the report and should be and unpins the proposal to extend the financing.

The Leader reminded Members that the Cabinet was still in the public domain and that Part 2 discussion were not acceptable without agreeing to move to part 2 discussion.

- The Cabinet Member for Finance noted that local site viability was an issue and there was a need to look at alternative sites. There needed to be a redirection and there is a need to move quickly so it could respond to local site availability. With regards to profitability this would be part of the upcoming business plan due to be presented to Cabinet, it was stressed that should this decision not be approved then it would be a disaster, these funds were for working capital to operate the business as well as a realignment of existing finances for funding new projects and that in respect of profitability the business plan was due in November.

The Member added that risks had not been shared with Members and were not properly analysed and that they needed to be, finally concern was raised over when the company would become profitable.

The Leader noted the comments made and noted that there were performance and risk schedules and 3 Rivers were included in the performance and risk reports.

**RESOLVED:** That

That it be agreed to increase the current loan agreements by a total of £2,280,784 to cover; the identified project overspends on 2 projects included in the previously agreed Business Plan funding envelope agreed on the 30 November 2021 and increased the working capital loan agreement. In addition, it be agreed that a transfer from a future projects budget of £0.58m in order for the business to work up new potential projects to replace the out of District projects that had to be removed from the company's business plan after changes to the Treasury's Public Works Loan Board loan arrangements.

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

(Cllr C Eginton, Cllr C Daw abstained, Cllr S Penny voted against and Cllr R M Deed, Cllr R J Chesterton, Cllr D Knowles, Cllr A Moore and Cllr C Slade voted in favour)

**Reason for decision:**

3 Rivers Developments Limited's (3Rivers) key aims are to: generate future returns in order to grow the business and to recycle monies made back to the Council to mitigate some of the cuts in Government funding, increase the level and quality of housing units within the District and look to help regenerate sites/areas in need of assistance.

56. **NOTIFICATION OF KEY DECISIONS**

**RESOLVED:** That the notification of Key Decisions be noted.

(The meeting ended at 11.30 am)

**CHAIRMAN**

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