

Minute 118 – Public Question Time

Questions from Roger Davey

In April of last year the overspend on the Riverside development of the unsightly blocks of flats and houses which disfigure the riverside, was quoted as just over three quarters of a million pounds. Given that in September last year the council gave 3 Rivers a further 2.2 million to keep it afloat my questions are :-

No.1

Given the continuing haemorrhage of public funds to 3 Rivers, How many more millions of pounds of council taxpayers money does the council intend to plough into 3 Rivers?

Answer –

Back in 2017 the Council decided to take a strategic investment decision to set up an arm's length property development company in order to generate additional revenue (on top of other key housing aims) to partially mitigate the severe cuts in Central Govt. funding. Since its inception the Council has received circa £2.3m from the company (as shown in the part 1 accompanying report on tonight's agenda). At tonight's meeting we will be carefully considering the company's latest Business Plan and two related project business cases to establish whether further investment will be made.

No.2 Given that it is obvious that the council and some of its officers are incapable of controlling the expenditure on 3 Rivers will the council bring in some forensic accountants or other external body to examine all of the accounts , contracts and any other documents associated with this company.

Answer-

Back in 2020 the Council commissioned national accountants and a legal company to review all aspects of the company. They generally gave the company and the Council a reasonable level of assurance in the set-up and ongoing arrangements of the company and in addition recommended a number of improvements that have all been implemented. It is also worthy of consideration that this high profile development has been delivered during 2 years of Covid and the current cost of living crisis (that has massively impacted on supply chains) which has seen material and labour prices increase by circa 20-30% in some areas.

No.3

Of especial concern must be the way in which the original multi million pound contract for the Riverside site was awarded to EBC (who later pulled out) after a cosy chat, without going out to tender!! This is a flagrant breach of the public procurement regulations which 3 Rivers are bound by as a company owned by the council. These regulations insist on at least 3 companies being invited to tender. Even if the councils usual contractors do not wish to tender there are many national firms who I am sure would have tendered had they been asked. Instead the contract was awarded "on design and build contract 2016 following negotiations with a contractor". This is the response from my freedom of information request to 3 Rivers in 2019. This alone especially as a councillor and a council officer were directors of 3 Rivers at the time, is I believe another breach of the regulations and surely warrants further investigation by an external body Why was the contract awarded in this way?

Answer –

As 3Rivers is a non teckal company it is not constrained by the same arrangements as a Local Authority. We are aware that the company utilised the services of a national cost consultant to help with appointment of a main contractor for this development.

No.4

Given 3 Rivers record thus far how can the council be sure that the costs for the Bampton and Park road developments are realistic and will not lead to the council taxpayers being saddled with yet more debt?

Answer –

The Council receives monthly performance reports from the Council – which includes updates on all live developments. The Bampton project is still indicating that it will make the level of profit originally estimated and the Park Road development is still under consideration by both parties. With regard to the company's record so far – the 3 developments delivered by the company (at Burlescombe, Tiverton and Halberton) have all been delivered on time and to budget/profit.

No.5

Given that this meeting is closed to the people who pay, if and when will the council release all of the information regarding 3 Rivers and the ongoing Riverside site fiasco?

Answer –

As the live performance of 3 Rivers is commercially sensitive the Council is legally exempt from providing "all of the information" as it happens. In order to provide as much transparency for our public as possible our regular performance update reports considered by the Cabinet contain a part 1 overview that high lights a summarised overview and some matters of public interest. Unfortunately the rest of the report which shows costs/incomes, prevailing contract issues, development risks, etc., that is then reviewed by the members, has to be held in part 2. I can confirm that the company's accounts are a matter of public record and can be viewed at Companies House if further information is required.

Questions from Paul Elstone

QUESTION 1

There is an increasing level of public concern over the financial arrangement between the Council and 3 Rivers, including the HIGH debt levels and the impairment of loans. These concerns are borne out by the demonstration outside of Phoenix House this evening and recent press articles, Once more, a meeting about 3 Rivers will be held in secret. For transparency, can the voting tonight be conducted in public with individual votes recorded?

Answer –

As a matter of record the Council was informed that the public demonstration held on the evening in question related to the allocation of Council properties via Devon Home Choice. During the meeting Cllr Chesterton fielded questions on this topic and asked the questioners to forward further information that would be investigated. For reasons of commercial sensitivity many of the discussions relating to 3Rivers are held in part 2 which excludes the public, however, virtually all reports that are considered are accompanied with a public introductory/overview report which attempts to highlight key information of public interest, without breaching any commercial interests.

I can confirm that there was a recorded vote to confirm the Council's decision.

QUESTION 2

External Auditors Grant Thornton have just published a report that identifies problems with 3 Rivers. A write-down of work in progress of £1.6 million, An overstated Tax deferment of nearly £500,000 Increasing the loss provision on St Georges Court by £222,000. This is in addition to the already declared £790,000 impairment on the Council's books. Why can't Council see this Company is in increasingly serious trouble?

Answer -

All of these amounts have been identified in a recent external audit report, relating to one of 3Rivers development projects, which was considered by our Audit Committee at their meeting on the 24/1/23. Some of the figures quoted are revisions to an original estimate and are therefore not cumulative losses. At this meeting Members took the opportunity to challenge their own officers and a senior officer from Grant Thornton (who confirmed he was happy with all of the accounting and consolidation between the 2 parties) with regard to these amendments and they then agreed to approve the accounts inclusive of the adjustments discussed.

The majority of discussion/questions appear to focus on the St Georges Court project. The Council and Councillors will also have regard to the other developments that the company has delivered and how they have performed to estimated project margins and timetables.

QUESTION 3

Scrutiny Committee on Monday were told that the Council will not now fund 3 Rivers from external borrowing but will continue to do this from Council funds.

With the over £900,000 budget cuts being asked for, how can the Council afford this?

Answer –

The Council will make regular treasury decisions that will determine precisely how the company will be funded based on the most financially beneficial outcome at the time of funding requests. This will be dependent on prevailing and future expectations around interest rates and other borrowing requirements, now and into the future.

The 23/24 Council general fund budget currently assumes gross interest receipts from the company of circa £900k. So without this investment the Council would clearly need to review/reduce the level of ongoing service provision it could deliver.

QUESTION 4

When given 3 Rivers current project delivery record, cost exposures, and impaired loans, all available property development loan market evidence shows that the Council are providing highly preferential interest rates and loan terms to its own Company.

That 3 Rivers are unable to lend from the market something confirmed by the then Cabinet Member for Finance at Cabinet on 6 September 2022.

Are the Council worried about the risk of being accused of giving 3 Rivers a significant commercial advantage in any tendering process, especially where public money is involved?

Answer –

All development loans made to 3Rivers are at a commercial rate of 4.5% above base rate. This has been agreed after discussions with banks and our external auditors.

The company can lend from the market should they wish to, however, as part of the Shareholder Agreement they must inform the Council of this intention. As the company is a non Teckal constituted company it has to bid for any Council business through the normal formal procurement processes and these decisions are then a matter of public record.

QUESTION 5

Can the S151 Officer both CONFIRM BEYOND ANY DOUBT that there will be NO RISK of a SECTION 114 Notice being issued as a result of the Council's involvement with 3 Rivers?

Answer –

All of the Council's investment decisions are based on the normal criteria of risk vs reward. This is constantly reviewed and currently includes a mixed portfolio of; bank/building society deposits, a mixed property fund (CCLA), retail holdings, industrial units and 3Rivers. Having a mixed portfolio is a conscious decision to diversify/mitigate specific risks that may disproportionately impact one of these investment options.

Every year when the S151 produces the Council's draft budget he is required to comment on the adequacy of reserves and the robustness of all of the estimated figures. All Council reports/decisions also include a section identifying and evaluating risk of potential decisions.

In addition our Audit Committee and Cabinet receive corporate risk reports, including risk registers and are charged with ensuring that any/all Council risks have been identified, evaluated and mitigation has been explored where necessary/practicable. Our external auditors will also review and challenge our risk management processes to provide further assurance.