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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COUNCIL** held on 19 July 2023 at 6.00 pm

Present

Councillors

F W Letch (Chairman)
C Adcock, M D Binks, D Broom, E Buczkowski, J Buczkowski,
J Cairney, S J Clist, G Cochran, Mrs F J Colthorpe, C Connor,
L J Cruwys, A Cuddy, G Czapiewski, J M Downes, G Duchesne,
M Farrell, B Fish, M Fletcher, R Gilmour, A Glover, C Harrower,
B Holdman, M Jenkins, S Keable, L G J Kennedy, L Knight,
N Letch, J Lock, J Poynton, R Roberts, S Robinson, L Taylor,
H Tuffin, G Westcott, N Woollatt and D Wulff

Apologies

Councillors

J Frost, S J Penny and J Wright

Present

Officers:

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy
Chief Executive (S151)), Maria De Leburne (District Solicitor
and Monitoring Officer), Andrew Seaman (Member Services
Manager) and Sarah Lees (Member Services Officer)

16 **APOLOGIES (00:08:22)**

Apologies were received from Cllrs J Frost, S J Penny and J Wright.

Cllrs N Bradshaw and S Chenore attended the meeting via Teams.

17 **PUBLIC QUESTION TIME (00:08:41)**

Paul Elstone asked:

Question 1

The last Council appointed 3 Rivers Director resigned on the 9th May. This administration has still to appoint a replacement, Director. A Council Director appointment which is key to protecting the interests of both the Council and Mid Devon Residents. Will this administration please appoint someone, with a strong commercial background, as a 3 Rivers Director?

Question 2

It was stated, in answers to Public Questions at Cabinet, that part of the additional £4.5 million 3 Rivers loan impairment was due to the 3 Rivers Working Capital Account. It has also been stated, by the S151 Officer, that the 3 Rivers Loan interest payments to the Council are paid from the same 3 Rivers Working Capital Account.

This would indicate that 3 Rivers has already, or is forecast to, enter interest payment default and is, or will be, operating while insolvent. Can a public explanation be provided?

Question 3

I have seen that Sales Marketing for the St Georges Court Development has ceased. That the marketing agent Hall and Scott have removed all reference to St Georges Court from their website. Is this development being sold to a Housing Association or similar entity?

Question 4

The Government Statutory Minimum Interior Space Standards 2015 were introduced as a requirement to prevent unscrupulous developers from building undersized properties to the detriment of the health and welfare of residents.

The Council has recently approved its own application for the installation of a modular house that, it is believed, falls well below these Statutory Minimum Interior Space Standards. Will Full Council ask for a full investigation into this matter and that any remedial action required, is taken to ensure this module meets all housing standards? Also, the modules for Shapland Place?

The Chairman explained that these questions would be answered with a written response.

Trevor Perry, a resident of Mid Devon was reassured by the Chairman that Cllr S Clist would speak to him after the meeting in regards to Mr Perry's concerns.

18 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00:15:36)**

Members were reminded of the need to declare any interests when appropriate.

19 **MINUTES (00:15:41)**

The minutes of the Full Council meeting held on the 26 April 2023, were agreed as a correct record and **SIGNED** by the Chairman.

The minutes of the Full Council meeting held on the 24 May 2023, were agreed as a correct record and **SIGNED** by the Chairman, subject to more context given to minute 7.

20 **CHAIRMAN'S ANNOUNCEMENTS (00:19:31)**

The Chairman announced that the pride flag had been flown during the month of June along with the Devon flag also raised outside Phoenix House. The Chairman had attended the Lammas Fair in Exeter on the 6 July 2023. In addition, the Chairman also visited the Tiverton Sea Cadet Unit and the Crediton Army Cadet Unit, as a representative from each unit would assist the Chairman in local civic duties. He encouraged young people to join these fantastic organisations.

21 **PETITIONS (00:23:41)**

No petitions were presented.

22 NOTICES OF MOTIONS (00:23:43)

1. Motion 593 (Councillor N Woollatt – 19 June 2023)

The Council has before it a **MOTION** submitted for the first time:

Motion: Leisure Services VAT

1. That this Council is pleased at the outcome of the legal challenge which has concluded in March that local authority leisure services are to be treated as non-business for VAT purposes and welcomes the Leisure VAT refund of almost £3M now due from HMRC.
2. The use of this significant refund should be considered carefully, and this Council should have an input on how it is dealt with. Therefore, this Council asks that a report be prepared for the appropriate Policy Development Group to consider the various issues and options available and then make recommendations to Cabinet and Council in the usual way in relation to the budget.
3. That this Council recommends to Cabinet that Mid Devon now stops collecting the VAT element included in any current pricing for Leisure Services which can now be classified as 'non-business' and reduces the price to customers by that amount.
4. That IF this Council wishes to increase Leisure Service pricing on services which are now classified as 'non-business' for VAT purposes that it should do so in an open and transparent way by conducting a review of pricing through the appropriate Policy Development Group before making recommendations to Cabinet in the usual way.

The **MOTION** was **MOVED** by Cllr N Woollatt and Seconded by Cllr G Westcott

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that this Motion be dealt with at this meeting.

Consideration was given to:

- That it was felt that information within the reports gave an impression that decisions were being taken behind the scenes and that the leisure VAT refund would be used for impairments.
- Members should have an input on how the refund would be dealt with.
- Concern was raised over the term 'donation' with the current VAT element now referred to as such.
- Price increases should be done openly and transparently.

Cllr J Buczkowski **MOVED** an **AMENDMENT**, Seconded by Cllr D Wulff that:

Motion: Leisure Services VAT

- ~~1. That this Council is pleased at the outcome of the legal challenge which has concluded in March that local authority leisure services are to be treated as non-business for VAT purposes and welcomes the Leisure VAT refund of almost £3M now due from HMRC.~~

That this Council is pleased at the outcome of the legal challenge which has concluded in March that local authority leisure services are to be treated as non-business for VAT purposes and welcomes the Leisure VAT refund of almost £3M now due from HMRC to support the past and continued subsidisation of the Council's Leisure Services.

- ~~2. The use of this significant refund should be considered carefully, and this Council should have an input on how it is dealt with. Therefore, this Council asks that a report be prepared for the appropriate Policy Development Group to consider the various issues and options available and then make recommendations to Cabinet and Council in the usual way in relation to the budget.~~

This Council asks that a report be prepared for the appropriate Policy Development Group to consider the various issues and options available and then make recommendations to Cabinet and Council in the usual way in relation to the budget.

- ~~3. That this Council recommends to Cabinet that Mid Devon now stops collecting the VAT element included in any current pricing for Leisure Services which can now be classified as 'non-business' and reduces the price to customers by that amount.~~

That the Council should only consider changes to the Leisure Services Pricing structure after a full review and recommendation from the relevant PDG.

- ~~4. That IF this Council wishes to increase Leisure Service pricing on services which are now classified as 'non-business' for VAT purposes that it should do so in an open and transparent way by conducting a review of pricing through the appropriate Policy Development Group before making recommendations to Cabinet in the usual way.~~

That this council should fully review all leisure pricing in an open and transparent way by conducting a review of pricing through the appropriate Policy Development Group before making recommendations to Cabinet in the usual way for implementation from 1st April 2024 (2024-2025) financial year. And that the review should have due regard for the subsidy given to the leisure services and the impact on the wider district Taxpayer of any reduction.

Therefore the amended motion would read:

Motion: Leisure Services VAT

1. That this Council is pleased at the outcome of the legal challenge which has concluded in March that local authority leisure services are to be treated as non-business for VAT purposes and welcomes the Leisure VAT refund of almost £3M now due from HMRC to support the past and continued subsidisation of the Council's Leisure Services.
2. This Council asks that a report be prepared for the appropriate Policy Development Group to consider the various issues and options available and then make recommendations to Cabinet and Council in the usual way in relation to the budget.
3. That the Council should consider changes to the Leisure Services Pricing structure after a full review and recommendation from the relevant PDG.
4. That this council should fully review all leisure pricing in an open and transparent way by conducting a review of pricing through the appropriate Policy Development Group before making recommendations to Cabinet in the usual way for implementation from 1st April 2024 (2024-2025) financial year. And that the review should have due regard for the subsidy given to the leisure services and the impact on the wider district Taxpayer of any reduction.

Consideration was given to:

- That decisions required discussion with facts and consultations reviewed, with reviews of the leisure charges conducted openly and transparently.
- Collaborative work was needed and that there was a need to be fiscally responsible, in the interest of all residents.
- Leisure Centres were important to residents and council tax would be spent wisely and carefully in the interest of residents.
- Without subsidies leisure services would be unaffordable and there was an aim to maintain affordability for leisure services. Subsidises had been carried out through improved energy efficiencies.
- An options report had been commissioned to make sure pricing would be done openly and that there was a need to look at information before a decision was made.
- The Leisure pricing strategy was due to be presented to the Community Policy Development Group.
- That the VAT refund be re-invested back into the leisure capital budget.
- Concern that written amendments included predeterminations.
- That these amendments lack context, breached procedure rule 16.4 and that delays would be caused.
- The Council spent £1.4m per year to subsidise the leisure centres which would equate to an extra £200 per leisure centre member and that the cost of living crisis was also a factor to consider.
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The District Solicitor & Monitoring Officer advised that there could be some contention within point 3 of the written amendment, as reference was made to 'only consider'. To which the Chairman suggested that the word 'only' be removed.

Upon a vote being taken, the **AMENDMENT** was declared to have **CARRIED**.

2. Motion 594 (Councillor N Woollatt – 19 June 2023)

The Council has before it a **MOTION** submitted for the first time:

1. That this Council does not approve of the suggestion that funds expected from the HMRC VAT refund may be used to finance the impairments of loans to 3 Rivers.
2. That this Council has concerns that utilising funds earmarked for a new waste depot to finance impairments of 3 Rivers loans will affect this Council's ability to deliver a new waste depot and lead to increased costs.
3. That this Council asks for a report to be prepared for the Audit Committee covering the impairment of loans to 3 Rivers, the impact on Council finances and planned projects and options for alternative ways to mitigate the impairments, preferably in areas which will have a lesser impact and cost to council service users.

The **MOTION** was **MOVED** by Cllr N Woollatt, Seconded by Cllr G Westcott

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that this Motion be dealt with at this meeting.

Consideration was given that:

- It was felt that a report presented to Cabinet on 6 June 2023 gave the impression that decision had been made. It was also raised that these reports were agreed by Cabinet with no changes made to the report.
- This motion could give Councillors an understanding of the impairments and options of mitigation, as well as an opportunity to be informed, involved and express views on these issues.

Cllr J Buczkowski **MOVED** an **AMENDMENT**, Seconded by Cllr D Wulff that:

- ~~1. That this Council does not approve of the suggestion that funds expected from the HMRC VAT refund may be used to finance the impairments of loans to 3 Rivers.~~

That this Council does not approve of the suggestion that funds expected from the HMRC VAT refund may be used to finance the impairments of loans to 3 Rivers and wishes to make clear that the VAT refund that it expects to receive will support the past and continued subsidisation of the Leisure Services, of around £1.4 million per year.

- ~~2. That this Council has concerns that utilising funds earmarked for a new waste depot to finance impairments of 3 Rivers loans will affect this Council's ability to deliver a new waste depot and lead to increased costs.~~

That this Council has concerns that utilising funds earmarked for a new waste depot to finance impairments of 3 Rivers loans will affect this Council's ability to deliver a new waste depot and lead to increased costs and requests that a

report detailing the consequences of such a decision is reviewed by the relevant PDG and Audit Committee.

- ~~3. That this Council asks for a report to be prepared for the Audit Committee covering the impairment of loans to 3 Rivers, the impact on Council finances and planned projects and options for alternative ways to mitigate the impairments, preferably in areas which will have a lesser impact and cost to council service users.~~

That once the future of 3 Rivers is decided by this Council, and the financial impact of this decision is fully assessed, this Council asks for a report to be prepared for the Audit Committee covering the impairment of loans to 3 Rivers, the impact on Council finances and planned projects and options for alternative ways to mitigate the impairments.

Therefore the amended motion would read:

1. That this Council does not approve of the suggestion that funds expected from the HMRC VAT refund may be used to finance the impairments of loans to 3 Rivers and wishes to make clear that the VAT refund that it expects to receive will support the past and continued subsidisation of the Leisure Services, of around £1.4 million per year.
2. That this Council has concerns that utilising funds earmarked for a new waste depot to finance impairments of 3 Rivers loans will affect this Council's ability to deliver a new waste depot and lead to increased costs and requests that a report detailing the consequences of such a decision is reviewed by the relevant PDG and Audit Committee.
3. That once the future of 3 Rivers is decided by this Council, and the financial impact of this decision is fully assessed, this Council asks for a report to be prepared for the Audit Committee covering the impairment of loans to 3 Rivers, the impact on Council finances and planned projects and options for alternative ways to mitigate the impairments.

Consideration was given to:

- That financial decisions on 3 Rivers Development Ltd should only be taken once all facts had been considered openly and transparently.
- The subsidy of the leisure services from the General Fund was a matter of fact and had already been decided.
- It was felt that the addition of words within the written amendment displayed predetermination.
- It was felt that this written amendment would ask for a narrowed version of the report and would cause delay. In addition, the intent would change, concern was raised that the written amendment altered the timeliness of the requested report.
- Council should have an understanding of the impairments.

Upon a vote being taken, the **AMENDMENT** was declared to have **CARRIED**.

23 CABINET - REPORT OF THE MEETING HELD ON 6 JUNE 2023 (00:52:25)

The Chairman deferred the Treasury Outturn Report to the next meeting of Full Council.

Cllr L Taylor presented the report of the meeting of the Cabinet held on 6 June 2023.

24 APPOINTMENT TO OUTSIDE BODIES (00:57:09)

The following appointments to outside bodies in accordance with the list as follows were **AGREED**:

Outside Body	Relevant information	Representatives	Appointment Length
Armed Forces Partnership	1 Member to act as the Armed Forces Champion for the Council	Cllr G Czapiewski	4 years until May 2027
Cullompton HAZ / Town Centre Regeneration Partnership	1 additional Member representing Cullompton Town Centre is needed (Cabinet Member for Planning and Economic Regeneration has already been appointed as MDDC (Chair))	Cllr S Robinson	4 years until May 2027
Mid Devon Locality Committee	1 replacement Member needed as, although Cllr F Letch was appointed by Council on 24 May to be the representative, he is already on the Committee as a County Councillor	Cllr N Letch	4 years until May 2027
Most Sparsely populated Councils Group (part of the RSN Rural Services Network)	1 substitute Member needed in case Cllr Czapiewski cannot attend a meeting	Cllr S Robinson	4 years until May 2027
PATROL: Parking and Traffic Regulations Outside London (meet virtually)	1 Member needed	Cllr G Cochran	4 years until May 2027
Police and Crime Panel for Devon and Cornwall	1 Member needed (Previously the Cabinet Member for Community)	Cllr L Kennedy	4 years until May 2027
Westleigh Quarry Liaison Group	1 additional Member needed (Cllr J Lock is already on this Group)	Cllr S Clist	

25 QUESTIONS IN ACCORDANCE WITH PROCEDURE RULE 13 (01:13:50)

There were no questions submitted under Procedure Rule 13.

26 SPECIAL URGENCY DECISIONS (01:14:03)

With regard to any decisions taken under Rule 16 (of the Constitution) Special Urgency taken since the last meeting. The Chairman informed the meeting that no such decisions had been taken in that period

27 QUESTIONS TO CABINET MEMBERS (01:14:10)

Cllr J Downes asked the Cabinet Member for Planning and Economic Regeneration, that this Council look into siting solar panels at points along the distribution network. It should be made favourable for developers to do so. In addition, it was asked if business centres could be put on more suitable sites. Finally, that this Council sought to facilitate renewable energy.

The Cabinet Member for Climate Change welcomed these comments and advised that the Net Zero Advisory Groups was due to be re-established.

In response the Cabinet Member for Planning and Economic Regeneration agreed with the comments made and noted that legal implications needed to be considered and highlighted that on the 20 July 2023 there was a briefing on sustainability for Cllrs.

Cllr N Letch asked if there was a mechanism to find retrospective planning applications.

In response the Cabinet Member for Planning and Economic Regeneration reassured the Cllr that the Council had enforcement Officers but was happy to meet to discuss further.

28 MEMBERS BUSINESS (01:19:19)

The following was raised:

- The promotion of cadet forces was congratulated but mention was also raised that there were other units such as the Police Cadets and the Air Training Corps.
- That consideration should be given to the possibility of the Windrush 48 flag being flown and that the use of flags outside of Phoenix House was an ongoing process.
- That the Mid Devon Show was on the 22 July and attendance was encouraged.

(The meeting ended at 7.29 pm)

CHAIRMAN

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Public Question Time

Paul Elstone

Question 1

The last Council appointed 3 Rivers Director resigned on the 9th May. This administration has still to appoint a replacement, Director. A Council Director appointment which is key to protecting the interests of both the Council and Mid Devon Residents. Will this administration please appoint someone, with a strong commercial background, as a 3 Rivers Director?

Answer

The administration has not yet taken a decision on this, as previously committed to, it will await the findings of the externally commissioned report before making any decisions in regard to the company, but notes the request.

Question 2

It was stated, in answers to Public Questions at Cabinet, that part of the additional £4.5 million 3 Rivers loan impairment was due to the 3 Rivers Working Capital Account. It has also been stated, by the S151 Officer, that the 3 Rivers Loan interest payments to the Council are paid from the same 3 Rivers Working Capital Account.

This would indicate that 3 Rivers has already, or is forecast to, enter interest payment default and is, or will be, operating while insolvent. Can a public explanation be provided?

Answer

The Council has agreed to fund to completion the development schemes at St Georges Court, Tiverton and Haddon Heights, Bampton, the company can therefore pay all of its liabilities (inclusive of the associated loan interest payments), as they fall due, in regard to these ongoing developments.

Question 3

I have seen that Sales Marketing for the St Georges Court Development has ceased. That the marketing agent Hall and Scott have removed all reference to St Georges Court from their website. Is this development being sold to a Housing Association or similar entity?

Answer

No decisions have yet been made on individual developments or the future of the Company, the administration will wait to receive the externally commissioned report before making any decision.

Question 4

The Government Statutory Minimum Interior Space Standards 2015 were introduced as a requirement to prevent unscrupulous developers from building undersized properties to the detriment of the health and welfare of residents.

The Council has recently approved its own application for the installation of a modular house that, it is believed, falls well below these Statutory Minimum Interior Space Standards. Will Full Council ask for a full investigation into this matter and that any remedial action required is taken to ensure this module meets all housing standards? Also, the modules for Shapland Place?

Answer

No, the council is unable to investigate decisions made by the planning committee.