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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 4 July 2023 at 5.15 pm

Present

Councillors J Buczkowski, N Bradshaw, S J Clist, S Keable, L Taylor, J Wright and D Wulff

Apology

Councillor J Lock

Also Present

Councillors D Broom, E Buczkowski, R Gilmour, B Holdman, M Jenkins and L Knight

Present

Officers Andrew Jarrett (Deputy Chief Executive (S151)), Richard Marsh (Director of Place), Maria De Leburne (District Solicitor and Monitoring Officer), Matthew Page (Corporate Manager for People, Governance and Waste), Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Dr Stephen Carr (Corporate Performance & Improvement Manager), Sue Hanwell (Operations Manager for Housing), Tristan Peat (Forward Planning Team Leader), Jason Ball (Climate and Sustainability Specialist), Keith Ashton (Facilities Manager for Corporate Property and Commercial Assets), David Parker (Member Services & Policy Research Officer) and Sarah Lees (Member Services Officer)

9. **Apologies**

Apologies were received from Cllr J Lock.

10. **Public Question Time**

Before consideration of the Public Questions the Leader stated that he had been made aware of some frustration experienced at the last meeting that questions submitted in advance should have been responded to in the meeting. Going forwards he requested that all questions submitted by 4pm on the preceding day to the meeting receive an answer at the meeting the following day.

The following questions were received from members of the public:

Nick Quinn

Problems Caused by Written Answers to Public Questions at Cabinet 06/06/23

A number of public questions were asked, during Public Question Time at the meeting of the MDDC Cabinet on 06/06/2023. The public had to wait 13 days before the written answers were provided - and there are clear problems with some of the answers given. According to the MDDC Constitution, these written answers “should be reported to the following meeting” – which is the Cabinet meeting on 04/07/2023 - but there is no agenda item that allows the Public to respond to these answers or raise the problems they contain.

Below are problems with two of the written answers given. Perhaps Cabinet Members might address them, when the “reporting of written answers” takes place.

Question Asked 1:

In paragraph 3.6.12 – it is stated that: “the Council has considered its outstanding loans to 3Rivers and has concluded that it needs to impair some of the loans”. The loan impairment figure given in the report is more than £4.5Million!
What was the date of the meeting of the Council, at which this matter was considered and this conclusion reached?

Answer Given 1:

The Council’s loan impairments is a matter for their Section 151 officer to determine and will then be subject to review during the annual audit process. Any impairment calculation made by the Section 151 will be based on all available information held at the time in question the overall impairment estimate was included in the annual outturn report considered by the Cabinet at its meeting on the 6 June 2023.

Problem 1:

The written answer makes it clear that “*the Council*” did not “*consider its outstanding loans*” nor did the Council “*conclude it needs to impairs some of the loans*”.
What was written in the 2022/23 Financial Outturn Report ,discussed at the last Cabinet meeting, is now shown to be incorrect – it still contains the words “*the Council has considered its outstanding loans to 3Rivers and has concluded that it needs to impair some of the loans*”.

Will Cabinet ask for this 2022/23 Financial Outturn Report to be noted as incorrect on the public records and ask that, in future reports, it is made clear where Officers are making decisions on behalf of the Council?

Question Asked 2:

This report is for the 2022/23 financial year - up to the end of March 2023. There was never any public mention of the likely impairment of 3 Rivers loans during this year. Now, more than £4.5M needs to be impaired!
Which loans are being impaired and how was the specific amount of this impairment arrived at?

Answer Given 2:

Currently 4 3Rivers loans are being impaired – 2 development loans and a working capital loan. The impairment was based on the likely level of repayment based on all information held.

Problem 2:

The written answer makes it clear that FOUR 3Rivers loans are being impaired . It is then stated this is made up of TWO development loans and ONE working capital loan.

In my mathematics $TWO + ONE = THREE$ (not FOUR).

So where/what is the Missing Loan?

The Cabinet Member for Finance responded to the questioner by stating that with regards to question number 1 the section of the report in question was informing Members of the Council that the S151 Officer had considered the outstanding loans and concluded that some needed to be impaired. It was not unusual that the advice or actions of officers were referred to in general as 'the Council' and given that this report was from officers to Members in this context it was perfectly reasonable to use the term in his opinion. However, feedback had been taken on board to make sure that all reports are clear to all readers in the future. Further, for the avoidance of doubt if there was a question as to when Members would approve the advice, as Cabinet merely noted the outturn report, then Members would have the opportunity to do so when the Statements of Accounts were finalised, reviewed by Audit and then presented to full Council. At this point Members would have the opportunity to debate and approve this advice. This had been made clear at the Cabinet meeting.

The Cabinet Member continued that in regards to problem number 2, there were currently 4 loans being impaired so the first part of the answer was correct, clearly there was an error in the further detail given as there were only 3 loans listed and he confirmed that the 4 loans that were being impaired were 2 projects loans, Riverside and Knowle Lane, the working capital loan and the balance of the aborted Park Road project. It was the latter that was missed from the original answer.

Barry Warren

My questions relate to item 4 on your agenda, and in particular at the top of page 6, where the recorded minute in relation to my second question is completely wrong in that it virtually repeats my first question and misrepresents what was asked.

My questions are recorded correctly on the audio recording, and in the questions and answers which are a supplement to the minutes and published on the website.

Will Members, please instruct that the written minutes be amended to include the correct wording of that part of my question 2 so as to give an accurate version and not the complete misrepresentation shown?

Why is the Chief Executive, as evidenced by his input at the recent Standards Committee, trying to reduce and misrepresent the public input?

Is his policy in fact making more work for officers by having to précis the minutes when questioners have provided written documents to the officers so that they can just cut and paste?

Why is this policy being pursued when in fact the room for error is increased thereby taking up more committee and Officer time to correct it as evidenced in this case, and the number of other instances prior to this?

Does this not create a potential for more conflict with the public, rather than achieving ruling party members wishes to encourage more public interest and involvement?

The Leader stated that there had been a lot of discussion on this at the Standards Committee, as well as how meetings were run, what information Members received and how information was recorded in the minutes. He continued by saying that councillors themselves did not have everything they say recorded in the minutes and whilst members of the public are encouraged to come and ask questions at Public Question Time Members don't necessarily need to have the entire statement before the question. This had been a cross party discussion and vote at the Standards Committee meeting. It was also very difficult to try and include all those pieces of information that somebody had submitted when a lot of the time it could be a huge page of statement and one part of question. We want to make sure that the questions are answered fully whilst not also having minutes that last 20 pages with the first part being Public Question Time. He further stated that all questions asked by members of the public were in the public domain as they were recorded.

The Leader stated that if Mr Warren wanted a further response he would ensure he received one in writing. With regard to the question about amending the minutes, the Leader was happy to put that forward to the Cabinet to include his full question when the minutes were discussed on the agenda.

There were no other questions from the members of the public present.

The Leader reiterated his request to have questions in advance by 4pm on the day before the meeting to ensure they were answered at the meeting the following day.

11. **Declarations of Interest under the Code of Conduct**

No interests were declared under this item. Members were reminded of the need to make declarations of interest where appropriate.

12. **Minutes of the Previous Meeting**

The minutes of the previous meeting, held on 6 June 2023, were approved as a correct record and **SIGNED** by the Leader subject to the following amendments:

- a) Minute no. 5 – 2022/23 Annual Treasury Management Outturn Report
The Cabinet were informed that this report should have included an onward recommendation from the Cabinet to full Council for approval, it had not.

The Leader asked the Cabinet whether they were content to **RECOMMEND** the 2022/23 Annual Treasury Management Outturn Report to full Council for approval on 19th July 2023. A vote in favour of this was taken and was carried unanimously.

- b) Question no.2 asked by Mr Barry Warren at the 6th June Cabinet meeting to be amended to read:

Question 2.

If the Company has not sold any properties since The Orchards in Halberton, is it not therefore a fact that 3 Rivers are paying interest to the Council out of loans from the Council?

Answer

In Paragraph 3.5.7, on page 36 of the papers, it is reported that Council agreed to commission an external 3 Rivers option appraisal.

An amount of £30k was included in the Revised 2023/24 Budget for this review. I am aware that the last Cabinet agreed, with Officers, the terms of reference for that review and directed that the reviewer be appointed before the election date (of 4th May 2023) in order that the results of the review would be available early for the new Cabinet to consider.

c) The written minutes be amended to include the following Members as being present at the meeting on 6th June 2023:

- Cllr Emma Buczkowski
- Cllr Gordon Czapiewski
- Cllr Matt Fletcher
- Cllr Andrea Glover
- Cllr Claudette Harrower
- Cllr Ben Holdman
- Cllr Lloyd Knight
- Cllr Sue Robinson
- Cllr Nikki Woollatt

d) Cllr N Bradshaw had attended the meeting in person and not virtually.

13. **Corporate Risk Report (00:25:00)**

The Cabinet had before it, and **NOTED**, a report * from the Corporate Performance and Improvement Manager and the Corporate Manager for People, Performance and Waste providing it with a quarterly update on the Risk Register.

Discussion took place regarding:

- The high risk rating applied to Cyber Security and the necessity for this. Even with the most robust mitigations in place the risk rating would always be high. It was confirmed that a Corporate Management Team, including two IT managers, the Deputy Chief Executive (S151) and the Cabinet Member had been established to specifically monitor this area.
- Risks in relation to the Cullompton Relief Road and the Culm Garden Village had been highlighted by the Audit Committee. Comments were made that the risk scores and actions needed were currently quite broad and vague and would need to be revisited to better reflect the risks involved. It was explained that funding in relation to such schemes was traditionally announced in the latter part of the financial year so hopefully this could provide some reassurance. It was also confirmed that officers could further develop the mitigating action identified to provide an extra level of detail.

- It was highlighted that under 'Equalities' no issues had been identified. The Corporate Performance Manager stated that this would be rectified before the report was next presented to committee.
- How items end up on the Risk Register? It was explained that issues could be raised through officers to their Corporate Manager or the Corporate Performance and Improvement Manager, and indeed Members were encouraged to report issues of concern. It was confirmed that the Corporate Risk Register was reviewed quarterly by officers with this being reported to the Audit Committee and the Cabinet.

Note: * Report previously circulated.

14. **Performance Outturn Report for 2022/23 (00:40:00)**

The Cabinet had before it, and **NOTED**, a report * from the Corporate Performance and Improvement Manager and the Corporate Manager for People, Performance and Waste providing it with an update on performance against the Corporate Plan and local service targets for 2022/23.

Note: * Report previously circulated.

15. **Award of Cleaning Contract for HRA Properties 2023-2026 (00:43:00)**

The Cabinet had before it a report * from the Corporate Manager for Public Health, Regulation and Housing advising it on the results for the tendering of the Cleaning Contract for HRA Properties 2023 – 2026 (+1+1) and seeking confirmation of the contract.

The Cabinet Member for Housing and Property Services confirmed that the procurement process and matrix was fully explained within the report.

The following was discussed:

- An explanation was provided as to why a three year contract was being sought. This was a compromise option, to have gone through a tendering exercise for one year would have been expensive and unlikely to yield value for money. Three years represented a sensible timeframe and the contract would be monitored closely and performance would be regularly reviewed. Measures would be in place to escalate issues should there be a need.
- The Cabinet Member stated that it was anticipated that this contract would come in below budget.
- Whether the new contract would have an effect on reducing turnaround times on void properties? It was explained that at any one time 97% of HRA properties were occupied. It was further explained that a new Voids Policy was approved in March 2023 which set out exactly what a 'void' was. There were lots of reasons as to why a property was classed as a void. Complicated issues needed to be thought through regarding each void so that the Council managed its assets to best effect. A thorough explanation regarding voids would be coming to the Homes PDG in August
- Going for the cheapest contractor was not always the best option. Many factors had to be weighed up, a significant one being the quality of the work being offered.

RESOLVED that:

- a) The new three year Cleaning Contract for HRA Properties 2023 – 2026, with the option to extend for two additional one year periods, be awarded to Contractor 1.
- b) Delegated authority be granted to the S151 Officer (in consultation with the Cabinet Member for Housing and property Services) to complete the associated Cleaning Contract for HRA Properties 2023 – 2026 (+1+1)

(Proposed by Cllr S Clist and seconded by Cllr J Wright)

Reason for the decision

Mid Devon Housing (MDH) had a requirement to maintain Health and Safety and meet the Decent Homes Standard. This contract would support this duty by reducing the risk of fire in the communal blocks of flats, enabling our homes to be cleaned ready to be let to tenants and maintaining the cleanliness of the Housing (Building Services) office space at Old Road.

Note: * Report previously circulated.

16. ASB Policy & Procedures(00:55:00)

The Cabinet had before it a report * from the Corporate Manager for Public Health, Regulation and Housing. Under the Neighbourhood and Community Standard, the Regulator of Social Housing (RSH) required all registered providers to publish a policy setting out, how, in consultation with their tenants, they would maintain and improve the neighbourhood's associated with their homes. Registered suppliers were required to publish a policy on how they work with relevant partners and tackle Anti-Social Behaviour (ASB).

The contents of the report were briefly outlined by the Cabinet Member for Housing and Property Services who made reference to the requirements of the Housing Regulator and the considerable work that had gone on to formulise a revised policy including the involvement of a Member Working Group. He also highlighted the fact that the team responsible for dealing with ASB had recently won a national award. Congratulations were extended from the Cabinet to the team.

Discussion took place with regard to:

- The lessons that could be learnt from the award winning team and whether these could be utilised in other areas of the Council. A lot of effort had been given to working with tenants face to face. An online tool kit was available which helped to provide quality evidence. Multi agency working with the Police, social services and others had been key providing joined up face to face engagement on all sides.
- The Council understood ASB better as a result of wider tenant engagement work. The team were proactively trying to assist tenants at an earlier stage so that the impact was lessened on all those involved in the long run.

- The Cabinet Member stated that there had been an impressive improvement since he was last portfolio holder for this area and suggested that other local authorities would be looking to see how Mid Devon had achieved this.

RESOLVED that the updated Anti-Social Behaviour Policy, Statement, Procedures and Equality Impact Assessment contained in Annexes A,B,C & D respectively be approved.

(Proposed by Cllr S Clist and seconded by Cllr D Wulff)

Reason for the decision

The Council was required, under Section 12 of the Anti-social Behaviour Act 2003, to prepare a policy and procedure on ASB and to publish the following documents:

- Statement of policy on ASB;
- Statement of procedure on ASB;
- Summary statement of current policy and procedures on ASB

Note: * Report previously circulated.

17. Local Development Scheme (01:08:00)

The Cabinet had before it a report * from the Director of Place updating the Local Development Scheme and providing an updated timetable for the production of a new Local Plan for Mid Devon.

The following was highlighted in the report by the Cabinet Member for Planning and Economic Regeneration:

- The report was about the need for an amended timetable for preparing a new Local Plan for Mid Devon.
- Local Planning Authorities were required to prepare and keep up to date a development plan for their area. The Mid Devon Local Plan was adopted in July 2020 and work had commenced with preparing a new local plan that would cover the period to 2043. This new local plan had the working title 'Plan Mid Devon'.
- A new Local Development Scheme was needed following a review of progress made so far, where there have been significant competing work pressures on the Forward Planning team that had contributed to a delay in reaching a Draft Policies and Site Options stage. Consideration had also been given to the Government's proposed reforms to the plan making system and the potential introduction of new style plans from late 2024.
- The report set out in detail the context for a new Local Development Scheme and options that had been considered.
- A new Local Development Scheme was included in Appendix 1, which included updated key milestones. The next key stage for preparing the new Local Plan, which would be a Draft Policies and Site Options report, would be reached in late 2024. This would provide an early opportunity for public consultation on emerging proposals for the future planning of Mid Devon, and

modifications to be made to those proposals before a draft plan was finalised and was submitted to the Secretary of State for its independent examination.

- Draft Policies and Site Options would be informed through technical evidence about the need for new homes, jobs, community facilities, supporting infrastructure and a range of other considerations relevant to plan-making. It would be shaped through the engagement of the Planning Policy Advisory Group over the coming months, with consideration given to a draft spatial development strategy for the district, site allocations and strategic and local planning policies to guide the development and use of land and buildings. This work would build on and take forward 6 top priorities that had previously been identified as part of policy Issues that were consulted on in early 2022. These included responding to the climate emergency, moving to a net-zero carbon future, and addressing housing affordability and improving choice. A Draft Policies and Site Options consultation report would be brought to the Cabinet in late 2024 for consideration.

Discussion took place with regard to:

- How the residents of Mid Devon would be consulted? It was confirmed that the Forward Planning Team would do more than the statutory minimum requirements in order to utilise all opportunities for community engagement. This would include a range of consultation events in each of the towns as well as workshops and opportunities to provide comments online. The team would also work with Members through the Planning Policy Advisory Group.
- The Cabinet Member provided assurance that the towns and the parishes would be at the heart of any proposals going forward.
- Sustainability would be a significant factor in all discussions.
- There was a need to avoid the delays which had occurred before the adoption of the previous Local Plan. It was explained that there had been particular reasons for those delays. Currently the timetable did hinge around the capacity of the Forward Planning Team, however, whilst the timetable was ambitious it was also achievable.
- There was a degree of uncertainty in the planning policy world at the moment, however, the team were continuing to make positive steps towards creating a new Local Plan.
- The new plan would need to be robust enough in order to support the levels of housing needed both currently and in the future.

RESOLVED that the revised Local Development Scheme (Appendix 1) be approved for the period from 12th July 2023.

(Proposed by Cllr S Keable and seconded by Cllr S Clist)

Reason for the decision

Local Planning Authorities were required to prepare and keep up to date a development plan for their area. It was important that the development plan was kept up to date to ensure that it reflected recent changes in the planning system, the Council's current corporate objectives and provided a sound basis for decision making.

Note: * Report previously circulated.

18. Options for Procurement of Energy (01:32:00)

The Cabinet had before it a report * from the Corporate Manager for Finance, Property and Climate Change providing an overview of options available to the Council for the supply of Gas and Electricity.

The contents of the report were briefly outlined by the Cabinet Member for Finance who made reference to the need for a swift decision since a decision well in advance of the contract end (30 September 2024) would enable the Council to secure timely access to aggregated volumes and related benefits.

Consideration was given to:

- LASER Energy were part of Kent County Council, a specialist trading arm dedicated to delivering gas, electricity and other utility value-added services for the public sector. They were an established Public Buying Organisation (PBO) set up for this very purpose and recognised nationally. It was one of the largest energy buying organisations in Europe, purchasing over £500m of energy per annum and serving over 200 public sector customers. There was a small risk in using them but they were recognised as outstanding in what they did.
- Steps could be taken to ensure the provider were ethically and socially viable via the procurement process. There had already been a lot of due diligence undertaken regarding this company.
- Reassurance was provided that 'call off contracts' were able to be provided if necessary.
- The energy 'chain of custody' would be maintained.

RESOLVED that:

- a) Delegated authority be given to the Cabinet Member for Finance - in consultation with the Corporate Manager for Finance, Property and Climate Change - to contract with the LASER Energy to procure, manage and supply the Council's gas and electricity between 01 October 2024 and 30 September 2028 (four years); and
- b) Delegated authority be given to the Cabinet Member for Finance - in consultation with the Corporate Manager for Finance, Property and Climate Change - to continue with the current 'purchase in advance' gas and electricity purchasing model managed by LASER but also to utilise other available LASER Framework options such as the 'purchase within period' basket if there is a sound business case for doing so; and
- c) To continue to participate in the Devon Energy Group; and
- d) The Council moves towards a 100% renewable tariff for electricity consumption at its main operational facilities from sources such as via the LASER 'green basket' or certificate-backed renewable electricity, in order to seek to achieve 100% within the next 2 years.

(Proposed by Cllr J Buczkowski and seconded by Cllr N Bradshaw)

Reason for the decision

The Council's current contract period with LASER Energy (LASER) for the supply of gas and electricity ends 30 September 2024. The Council needed to consider the procurement options and next steps, and a decision needed to be made. This varied from undertaking a full procurement process to a direct award to one of the Public Buying Organisations (PBO).

The Council gains economies of scale (added discount) by participating in the Devon Energy Group with other Devon authorities. The collective is coordinated by Devon County Council who also provide Procurement support to the Council. The new contract would be directly between the Council and LASER, and the arrangement meant LASER would procure energy on behalf of the Council.

Note: * Report previously circulated.

19. **Notification of Key Decisions (01:40:00)**

The Cabinet had before it, and **NOTED**, the notification of * Key Decisions.

The following three items had been added to the Forward Plan since the publication of the draft plan attached to the agenda for the meeting:

- a) Review of 3 weekly bin collections, this would be presented to the Environment PDG on 15th August and then to the Cabinet on 29th August 2023.
- b) Environment Enforcement Yearly Review Report, this would be presented to the Environment PDG on 15th August and then to the Cabinet on 29th August 2023.
- c) 3 Rivers Options Appraisal Report, this would be presented to the Cabinet on 29th August 2023 with a recommendation for Council on 6th September 2023.

Note: * Notification of key Decisions previously circulated.

(The meeting ended at 6.59 pm)

LEADER

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