

PUBLIC QUESTIONS AND ANSWERS – FULL COUNCIL 1 NOVEMBER 2023

64 PUBLIC QUESTION TIME

Paul Elstone

My first questions relate to 3 Rivers Development Loans and Interest Payments.

Question 1

In August of this year, it was declared by Council Officers that the current outstanding 3 Rivers loan value was £21.3 million. Has this loan value increased since, and if so, what exactly is the value of the loan today?

Answer

The loan principal had increased, it had gone up to £22.702m which included some payments that had been released over the last few weeks.

Question 2

3 Rivers are allowed to pay loan interest quarterly rather than monthly, something not financially prudent for this Council. Have 3 Rivers fully made the first and second quarter interest payments for this financial year. If not, why not?

Answer

Quarter one had been paid, Quarter two hasn't yet because it has not fallen due since the company have 30 day terms to make that payment so all of the interest that is payable by the company has been paid.

Mr Elstone stated that the invoice to the company actually gave 21 days.

This third question is in connection to a statement made by the Council Leader about the 3 Rivers Lessons Learned process:

Question 3

In answer to the members of the Mid Devon public requesting a fully independent investigation into MDDC business relationship with 3 Rivers. The Council Leader is on record as saying. Quote: "Pointing the blame at individuals or specific causes, will only incur significantly more cost". Unquote. His statement was perhaps clarified by the Monitoring Officer who said at the last Scrutiny Committee Meeting "there is a need to keep certain things confidential and not made public because of the Tribunal perspective".

Liberal Democrat and Conservative Councillors including from this current administration have told me and in the clearest of terms that Council Executive Officers have stated that if officers were maligned there was a risk of the requirement to pay £500,000 for constructive dismissal at an Employment Tribunal. Was this what the Council Leader was referring to when he made his statement?

Response from the Leader:

The statement referred to the fact that further delay after the recent years of prevarication and procrastination, was only likely to mean that the costs arising from closing down the company increased in the future. This administration came in with a clear view on what decisions needed to be made, and this approach was supported unanimously by the council. I am very pleased that the delay and indecision of the past has been consigned to Mid Devon's political history.

Question 4

Similarly, I have been told by a Liberal Democrat Candidate for the next Parliamentary Election, this after I raised the £500,000 constructive dismissal potential the following: That this Council was in a financial mess. Why would this new administration want to take that additional risk? Was the Council Leader aware of this position when making his statement?

Response from the Leader:

The figure quoted is not recognised.

Barry Warren

My questions are prompted by Agenda item 10.

On 22nd February 2023 the Council passed Motion 591 with a majority vote made up from Independent and Liberal Democrat Councillors. The Council resolved to change from the Cabinet System of governance to a modernised Committee system to be implemented from the Annual Meeting 2024. The minutes of the meeting show that, before the vote, the District Solicitor and Monitoring Officer stated: "that if members indicated to go to a Committee System we would take this as a steer to go away and start preparing the governance framework for this type of system and that it would need to be brought back to Full Council for a final decision at some time in the future".

The motion, the vote and the timescale were very clear. We are now 8 months down the line – only 5 months away from the target implementation date - and we have this report which does not suggest much, if any, work has been done to prepare for a new governance framework.

1. Please can the public be informed as to what preparations have been made to date to prepare governance arrangements for a modernised committee system as they are not clear in this report?

Answer

The report is clear and states that 'This report forms part of the journey of changing the council's system of governance'. Members discussed the report at Council and considered the options and next steps, before making a decision.

2. Under the heading Risk Assessment it states 'There is a clear risk that making a change to governance arrangements or making no change will be perceived as unsatisfactory, depending on any individual viewpoint.' Consideration of this risk was apparent in the discussion before the democratic decision was made by Full Council in February 2023. The Council has already decided the way forward. Does the Monitoring Officer not consider this sufficient, or is this prevarication?

Answer

It is right and proper that council considered risk alongside every decision.

3. We have seen before that senior officers have taken a long time to carry out the wishes of Members if it appears contrary to their viewpoint. A Cabinet request in 2019/20 in relation to external reports on 3 Rivers was delayed by about 9 months and another one delayed in 2023 before the May election. This appears to be another case where Officers are given a clear instruction and timescale but this report suggests that action to achieve the desired outcome has been delayed. What is the reason for this delay in actioning a democratic decision of Council?

Answer

Some decisions require further work and/or follow up prior to implementation. Wherever possible this is made clear in the report accompanying a member decision. In this case, no officer report was available as this item arose on the back of a motion submitted to council – hence the Monitoring Officer making it clear at the time that this would need to be taken as a steer to go away and start considering the implications of a changes in governance, but that a future report would have to be brought back to Council. The report on Council's agenda delivers that commitment.

4. Has Cabinet been consulted and agreed to the current action and delay?

Answer

Cabinet has been kept advised on outstanding actions arising from the previous administration.

Tim Bridger

Will the Chair take this opportunity to apologise to members of the public for treating them so poorly at the last meeting and for his heavy handed, dismissive and rude attitude to public questions?

The Chairman stated that he regretted if Cllr Bridger saw his behaviour as unacceptable but he did not apologise because he had been led on by some rather aggressive comments not just to himself but to officers and as he had said earlier in his statement, Members make the decisions and it is the officers who carry them out.

Mr Bridger continued, regarding agenda item 9, there is a serious error in the rounding up on the calculation of the ungrouped membership. I am sure the Council would not wish to have this standing as at the moment it looks like they are trying to remove the only independent councillor from the Scrutiny Committee. I am sure the Council will note that they have already gone against protocol by appointing one of their own as the Chair of Scrutiny and this error will actually result in there being ten members of the leading administration and not one single independent. This is not acceptable and the Council should not be seen to be doing this.

Finally at the previous meeting I asked a question, it took a long time to get a response and when it came it was quite frankly nonsensical so I will ask the question again: In the June Scrutiny and August Cabinet meetings, the S151 Officer presented Capital and Revenue Outturn stating there was a positive outlook for the Council despite a £4.1m impairment for 3 Rivers. Six weeks later in the press there was an article complaining the actual loss was going to be closer to £7.3m and no explanation as to where this came from. The answer I got was not accurate. The article was published in August, the decision was not made until September so can I therefore have a reasonable answer as to where that additional money has come from and can I ask once more was the £5.1m impairment quoted to this Council in June a misstatement or a mistake?

Answer

This question is fundamentally a repeat of the one raised and answered at Full Council on the 6/9/23. For further clarification, financial information is provided to numerous Council meetings on 3Rivers. Due to major strategic decisions that have been made over the past 6 months, some of the financial forecasts have been materially revised. Therefore, all financial updates were correct, as estimated, at the time they were provided.

Goff Welchman

I am here to speak on behalf of a lot of very angry Council Tax payers in Mid Devon who are fed up with the whole 3Rivers fiasco. I now Scrutiny Committee is investigating it along with a working group but I am most concerned that Council officers have been involved in setting the Terms of Reference for those investigations and I would like to request that that ceases forthwith. Those officers themselves could possibly be the subject of investigation. That's totally inappropriate and it should be an independent enquiry as Exeter City Council have carried out into their very similar financial losses on a housing development scheme.

My second question relates directly to the question I put to Monday's Scrutiny Committee: Did any permanent officer of Mid Devon District Council with a financial controlling interest on that Council also serve as a Director of 3Rivers, signing off loans, requested by 3 Rivers? I received what I can only describe myself as an evasive answer to that. I would like tonight a 'yes' or a 'no', a simple one word answer to that question. Thank you.

Repeat questions within 6 months are not permitted (to note), but for clarity when the council initially set up the company a council officer was nominated to be on the company board. This was in full accord with external legal guidance provided by

Bevan Brittan at the time. Once the company had been established with a developing project pipeline, external advice recommended that this be changed to avoid any perceptions of conflict of interest. This formed one of the recommendations agreed by audit and scrutiny committees at the time. And for further clarification, all financial transaction approvals, including loans were only authorised by officers with no connection to the company.