

MINUTES of a **MEETING** of the **AUDIT COMMITTEE** held on 26 March 2024 at 5.00 pm

Present

Councillors

L G J Kennedy (Chairman)
E Buczkowski, C Connor, G Duchesne,
B Holdman, L Knight (Vice Chairman) and
R Roberts

Apology

Councillor

S Robinson

Also Present

Councillors

D Broom, J Buczkowski, A Cuddy, G Czapiewski,
C Harrower and D Wulff

Also Present

Officer(s):

Paul Deal (Corporate Manager for Finance, Property and Climate Change), Matthew Page (Corporate Manager for People, Governance and Waste), Paul Middlemass (Audit Manager), Angie Howell (Democratic Services Officer) and Sarah Lees (Democratic Services Officer)

Councillors

Online

J Downes and S Keable

Officers

Online

Dr Stephen Carr and Dean Emery

Also in

Attendance

Ken Johnson (DAP)
Jo McCormick (DAP)
Julie Masci (Grant Thornton)
Andy Nichols (Grant Thornton)
Craig Sullivan (Bishop Fleming)
Jennifer Whitten (Independent Person candidate)

62. APOLOGIES

Apologies were received from Councillor S Robinson who was substituted by Councillor Ben Holdman.

63. PUBLIC QUESTION TIME

The following members of the public had registered to ask questions:

Goff Welchman

My questions concern loans from this Council to 3 Rivers.

A friend of mine has had a very long career in banking with a major high street bank and in particular with business investments lending money to new start-ups. Having looked at it carefully, his view of 3Rivers was that if the original Directors with their lack of experience in the relevant field and with lack of any capital to invest themselves approached his bank without a proper business plan and asked for a loan every red flag in the lending world would have popped up and the request would have been rejected summarily. He also told me that if he had authorised loans to the tune of £23m to 3Rivers on behalf of his bank, he would have been fired. Therefore my questions are:

1. How were the loans from Mid Devon District Council assessed?
2. What checks and audits were in place?
3. How were the loans approved and on whose authority?
4. Were Councillors given the opportunity to review the loans and if not, why not?
5. What were the repayment terms of each loan and was the commercial interest rate at the time charged on the loan?

Nick Quinn

Regarding Agenda Item 8 – 3 Rivers Soft Closure Plan.....

Question 1

This 'Soft Closure Plan' report makes reference to Cabinet being informed of the purchase, or transfer, of assets from 3 Rivers to the Council. One of the items was expenditure relating to a possible development of the Park Road Nursery site, which I believe was described as being "intellectual property" - please can you tell me what actually is the "intellectual property" that the Council intends to buy from 3 Rivers?

Response from the Cabinet Member for Finance

This included the architectural drawings associated with the new planning application.

Question 1(a)

Bearing in mind that the Council still owns the Park Road Nursery site and has already obtained Planning permission for a development on it - why does this "intellectual property" have value to the Council?

Response from the Cabinet Member for Finance

It is possible that this might be re-sellable to any new purchaser.

Question 2

Has the purchase of the St George's Court complex, by the District Council, been completed yet?

Response from the Cabinet Member for Finance

Yes

Question 2(a)

If so, on what date was this completed?

Response from the Cabinet Member for Finance
21 March 2024

Question 3

Has the purchase of 42 Banksia Close, by the District Council, been completed yet?

Response from the Cabinet Member for Finance
No

Question 3(a)

If so, on what date was this completed?

Response from the Cabinet Member for Finance
N/a

Paul Elstone

Regarding Agenda Item 9 – Grant Thornton Interim Report 2022/23....

Question 1

Page 20 final paragraph says.

“The report set out the Judgement made by the Devon Audit Partnership is that the allegations were made on an incomplete understanding of the issues involved. The debate has however continued mistrust between officers, members and some members of the public continues.”

Given the last sentence never truer words spoken.

I find it belittling for it to be suggested that former members of this Council and some members of the public did not understand the issues. I would also promptly add the allegations made as much as anything were about Officer, Member and Director misconduct. This opposed to criminal actions. Therefore, I will ask the following related questions.

Why was the Officer most widely associated with the allegations allowed to set the terms of reference and the very tight investigation timelines?

Question 2

Why were the full reasons behind Rivers paying nearly twice as much above the lands market valuation and for the “*pig in the poke*” Bampton site not investigated?

Question 3

Why was the Building Developer and who had an agreement with the landowner to buy the Bampton site and who had spent £80,000 on the development site planning

works not interviewed? A developer who has since needed to file for bankruptcy and in part due to these losses.

Question 4

Why were the full circumstances of a non-existent Ransom Strip not investigated and something alleged had been used by 3 Rivers to destabilise the land-owners sale to the developer?

Question 5

Why was a former MDDC Planning Officer not interviewed and who knew of this building developer's involvement and including of his offer to make a S106 payment of circa £400,000 re: Affordable Homes?

Question 6

Why were conflicts of interest involving key persons involved in the land purchase and the landowner not investigated?

Question 7

Why was the Tiverton Town Clerk not interviewed and who identified the alleged theft of materials at St Georges Court?

Question 8

Why was the Town Clerk and supported by the current and previous Mayor not interviewed. This in respect of the attempts of Officers and Members to suppress any investigation into the alleged theft.

Question 9

Why were Officers, Members and 3 Rivers Directors not interviewed and who provided 3 separate excuses for the removal of the materials?

Question 10

Why was the Manager of a Builders Merchant not interviewed after he raised major concerns about materials being signed out by persons not knowingly associated with 3 Rivers?

Question 11

Why were Builders Merchants sales receipts and signatories not checked?

Question 12

Why were 3 Rivers payment records to this Builders Merchant not checked?

Question 13

Will the Chair of Audit and with the support of this committee agree there is justifiable reason to open a full and independent investigation into the previously made allegations of misconduct or worse?

The Chairman informed the meeting that, as their questions had not been received in advance of the meeting, written responses would be supplied to Mr Welchman and Mr Elstone within 10 working days and attached to the minutes of the meeting.

64. **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

65. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 16 January 2024 were confirmed as a true and accurate record and **SIGNED** by the Chairman.

66. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had the following announcements to make:

- He reminded the Committee that there would be a special meeting of the Audit Committee on Tuesday 30th April 2024 at 5pm to sign off the 2022/2023 Accounts.
- He introduced a representative from the Council's new External Auditors, Bishop Fleming, Mr Craig Sullivan, and stated that he would be presenting the Bishop Fleming Audit Plan later in the meeting.

67. **INDEPENDENT PERSON - INTRODUCTION**

The Chairman welcomed Jennifer Whitten to the meeting as a potential Independent Person to the Audit Committee. She was attending this evening's meeting in an observing capacity only.

68. **ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

The Committee were of the opinion that their discussions for the following item did not need to go into Part II, therefore there was no need to pass a resolution to exclude the Press and Public at this stage.

69. **3 RIVERS DEVELOPMENT LTD - SOFT CLOSURE PLAN (00:15:00)**

The Committee received, and **NOTED**, a report * from the Deputy Chief Executive (S151) providing reassurance that a formal company closure plan was produced and utilised to assist with a structured closedown process. The plan had been followed by the officer / director working group and updated with both progress and new items as identified.

It was explained that the closedown procedure had commenced back in October 2023 and this was now nearing the end of that journey. Assets would be transferred by the end of the week. There would now be a period of dormancy before the company was struck off.

Note: * Report previously circulated.

70. GRANT THORNTON - INTERIM ANNUAL REPORT FOR 2022/23 (00:17:00)

The Committee had before it and **NOTED** a report * from Grant Thornton providing their interim assessment of the Council's Value for Money arrangements.

The following summary was provided:

- Grant Thornton's final conclusion in relation to the Council's accounts for 2022/2023 would be brought to the special meeting planned for 30th April 2024. This might include some updated commentary.
- Their approach regarding the Value for Money assessment was explained which included looking at 3 specific areas, including financial sustainability, governance and decision making.
- The 3 levels of possible recommendations were explained.
- Putting 3Rivers aside, the health of the Council's finances was very good.
- Regarding 3Rivers, it was the opinion of the external auditors that oversight of its stewardship had been insufficiently strong. It had been incumbent upon the Council to have asked more questions of 3Rivers, for example, were objectives still achievable? This was generally felt to be good practice.
- It was also the external auditor's opinion that the company's Business Plan had not been created and agreed in a constructive and timely manner meaning that the Council had not been able to set its budget according to regular time scales. Should the Council wish to enter into a similar arrangement in the future it should be mindful of the recommendations made by the Scrutiny Committees 'Lessons Learned' Working Group.
- Other improvement recommendations regarding the Council's finances would include firming up the Medium Financial Term Plan clearly identifying a savings programme to plug any future funding gaps. They had discovered no evidence of policies not being complied with but felt that more information could have been provided regarding cost effectiveness.

Discussion took place with regard to:

- Whether it would be possible to monitor cost effectiveness better by amending the Key Performance Indicators (KPI's)?
- It was suggested that the Council should try to in-still more of a business culture.
- The need the move on now and focus on the actions identified by the Scrutiny Working Group by regular monitoring.

It was **AGREED** that the Audit and Scrutiny Committees continued to monitor the actions identified by the Scrutiny Working Group looking at the lessons learned from the 3Rivers experience.

Note: * Report previously circulated.

71. CORPORATE RISK REPORT (00:20:00)

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

Discussion took place with regard to:

- Whether the risk rating for Corporate Risk 17, Severe Weather Emergency Recovery, needed to be increased given the volatility of climate change? This suggestion would be fed back to the Leadership Team. The focus of the risk was currently around whether the Council had the right preparedness to recover from an 'event'.
- The risk rating related to Corporate Risk 8 Quality of Planning Decisions has been reduced due to the actions of the committee.
- Appropriate mitigations needed to be in place to provide assurance in relation to Information Security.
- A possible risk in relation to Junction 27 given the significant economic impact upon the economy of Mid Devon. This would be fed back to the Leadership Team.

Note: * Report previously circulated.

72. **RISK MANAGEMENT POLICY (00:44:00)**

The Committee had before it a report * from the Corporate Performance and Improvement Manager updating the Council's Risk Management Policy for the 2024/25 financial year.

The following was highlighted:

- This policy was reviewed on an annual basis.
- The process had previously been revised to provide more accountability.
- The Corporate Risk Register had been established, rolled out and was now well embedded.

Discussion took place regarding risk appetite in relation to the local community which might need careful consideration. It was explained that the examples of risk severity which had been included in the policy were offered as guidance, they were not an exhaustive or prescriptive list but designed to be helpful examples.

RESOLVED that the updated Risk Management Policy be approved.

(Proposed by Cllr B Holdman and seconded by Cllr E Buczkowski)

Reason for the decision

Failure to mitigate risks or take advantage of opportunities could result in financial loss to the Council.

Risk management was an integral part of the Council's Corporate Governance arrangements and there was a statutory responsibility under the Account and Audit Regulations (2015) to put in place risk management arrangements.

Failure to take advantage of opportunities and mitigate risks could impact on the Council's ability to deliver its strategic objectives. Assessment of the effectiveness of the framework for identifying and managing risks and for performance and

demonstrating clear accountability was a key element of the Council's governance arrangements.

Note: * Report previously circulated.

73. **DAP INTERNAL AUDIT PROGRESS REPORT 2023-2024 (00:46:00)**

The Committee had before it, and **NOTED**, a report * from the Devon Audit Partnership (DAP) providing a progress update.

The following was highlighted within the report:

- An Outturn Report for 2023/2024 would be brought to the next meeting.
- The Housing Benefits area had received a 'Substantial Assurance' opinion.
- The Emergency Planning area now had a weather risk which was useful.
- The new Resilience Officer was undertaking good work.
- Building Control had received a 'Limited Assurance' opinion given the issues facing the partnership with North Devon District Council in providing an effective and timely service with a significant reduction in income.
- There had been a slight reduction in the number of overdue medium recommendations.
- There had been a real focus on housing voids by Mid Devon Housing and a reduction in the numbers generally since April 2023.

Note: * Report previously circulated.

74. **DAP INTERNAL AUDIT CHARTER AND STRATEGY (DAP) (00:55:00)**

The Committee received a report * from DAP providing the updated Internal Audit Charter and Strategy.

The following summary information was provided:

- The Charter and Strategy set out how Internal Audit delivered its service. Whilst this was a 'dry' document it was very important for setting the standard and supported the team in its work.
- The documents set out the framework of audit activity and formalised it.

RESOLVED that the updated Internal Audit Charter and Strategy be approved.

(Proposed by the Chairman)

Reason for the decision

The Internal Audit Charter and Internal Audit Strategy for Mid Devon was required by the Public Sector Internal Audit Standards (PSIAS).

Note: * Report previously circulated.

75. **DAP INTERNAL AUDIT PLAN 2024-25 (00:57:00)**

The Committee had before it a report * from DAP providing the Internal Audit Plan for 2024-2025.

The following was highlighted within the plan:

- The 'Audit Needs Assessment' was explained which provided information about how audits were prepared.
- Considerations when organising an audit included looking at universal areas of risk, discussions with the Directors, looking at previous reviews, looking at the IT systems in place and best practice across the sector.
- Audits were a collaborative process and the annual audit of the accounts usually started in December in each year.
- The proposal was to include a reduction of 10% in terms of the number of audit days next year.
- The plan would need to be responsive to unfolding events with follow up work on previous audits with 'Limited Assurance' opinions.
- 30 audit days were currently allocated to looking at Cyber Security.
- The majority of areas with significant risk would be covered.

Discussion took place regarding:

- There had been a slight improvement in the Council's audit opinions in the past 12 months however follow up work was still needed in relation to Cyber Security and Information Security.
- The delivery of the current audit plan, whilst nearing the end, was on target.

RESOLVED that the DAP Internal Audit Plan for 2024-2025 be approved.

(Proposed by Cllr B Holdman and seconded by Cllr C Connor)

Reason for the decision

The Audit Committee, under its Terms of Reference contained in the Council's Constitution, was required to review and approve the Internal Audit Plan to provide assurance to support the governance framework.

Note: * Report previously circulated.

76. **DAP - COUNTER FRAUD RESILIENCE AND ASSESSMENT REPORT (01:09:00)**

The Committee had before it, and **NOTED**, a report * from DAP outlining the ever increasing fraud threats affecting all areas of public spending and the responses expected from Mid Devon District Council.

The following was highlighted:

- The Committee were referred to a checklist of Chartered Institute of Public Finance Accountancy (CIPFA) expectations contained within the report which each local authority should assess itself against as a response to the risk of

fraud and corruption. It was DAP's opinion that this Council measured up quite well against this list.

- Fraud represented 41% of overall crime and was on the increase.
- Failure to attempt to prevent fraud could be classified as a criminal offence in the future.
- The Corporate Manager for Income, Benefits and Recovery had undertaken some important work in relation to the Single Persons Discount and was to be congratulated.

Discussion took place with regard to:

- Organisations now needed to demonstrate that they had adequate procedures in place to attempt to prevent fraud.
- Fraud risk in relation to the Council Tax area. It was confirmed that collection rates were looked at as part of any audit in this area, however, as the Council only kept £0.08p in every pound of Council Tax there was a limit in terms of how much resource that could be put to this area.

Note: * Report previously circulated.

77. **BISHOP FLEMING - 2023/24 AUDIT PLAN (01:25:00)**

The Committee had before it, and **NOTED**, a report * from Bishop Fleming, the Council's new External Auditors, providing an overview of the nature and scope of their audit work and bringing the Committee's attention to key aspects of the audit.

The following was highlighted within the Audit Plan:

- The plan set out their key roles and responsibilities. It also outlined the key risks.
- As the External Auditors they would be looking to assess the Council's Financial Statements and Value for Money arrangements.
- They would also be following up on any weaknesses identified by Grant Thornton.
- A sector update was also provided with information regarding the three current national consultations.
- They hoped to get back to the audit timetable that had existed before 3Rivers.
- They had met with relevant officers and had starting building important relationships.

Note: * Report previously circulated.

78. **CHAIRMAN'S ANNUAL REPORT 2023/2024 (01:27:00)**

The Committee had before it, and **NOTED**, the Chairman's Annual Report * for 2023/2024.

There being no further discussion on this report it would now go forward to full Council for noting on 24th April 2024 alongside the Annual Reports from all the other Committee Chairmen.

Note: * Report previously circulated.

79. IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01:30:00)

The Committee had before it, and **NOTED**, the items identified in the work programme for the next ordinary meeting. No additional items were requested to be added.

(The meeting ended at 6.31 pm)

CHAIRMAN