

MINUTES of a **MEETING** of the **CABINET** held on 5 March 2024 at 5.15 pm

Present

Councillors

L Taylor (Leader)
S J Clist, J Lock, J Buczkowski, S Keable,
J Wright and D Wulff

**Councillor
online**

N Bradshaw

**Also Present
Councillor(s)**

D Broom, G Czapiewski, C Harrower, L Kennedy, L Knight,
S Robinson,

**Also Present
Officer(s):**

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151), Richard Marsh (Director of Place & Economy), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Matthew Page (Corporate Manager for People, Governance and Waste), Lisa Lewis (Corporate Manager for Digital Transformation and Customer Engagement), Darren Beer (Operations Manager for Street Scene), Luke Howard (Environment and Enforcement Manager), Laura Woon (Democratic Services Manager)

122. APOLOGIES

Apologies were received from Cllr N Bradshaw.

123. PUBLIC QUESTION TIME

The following questions were received from members of the public:

Mr Nick Quinn:

My questions concern Agenda Item 8 – The 3 Rivers Soft Closure Update Report Paragraph 2.4 lists a number of key actions to be carried out by the end of March 2024, my first questions are on these actions:

The assets/holdings listed as actively being transferred include "Knowle Lane, Park Nursery Expenditure and Working Capital".

Question 1:

The Council purchased Knowle Lane on February 2nd and the other two items were previously 'impaired' loan amounts, not assets – so can this statement be explained please?

Response from the Cabinet Member for Finance

The key actions listed in 2.4 made reference to assets/holdings that will be transferred by the 31/3/24. Some items had already been completed and some were still subject to completion. This was a simple statement to give reassurance that they would all be completed by the 31/3/24.

Question 2:

Has the Purchase of St Georges Court been completed yet?

Response from the Cabinet Member for Finance

No St Georges Court has not been completed yet. It was currently on target to complete next week.

It is also stated that "the management of assets on behalf of the General Fund will be transferred to a new external management company".

Question 3:

Is the Council setting up this "New External Management Company"?
If Yes?

Response from the Cabinet Member for Finance

No, the Council was simply looking to procure an external letting agent for 4 Council owned residential flats/houses.

Question 3(a):

Will it be set up properly, and implement the recommendations of the Scrutiny Committee 'Lessons Learned' report on 3 Rivers?

Response from the Cabinet Member for Finance

This would be awarded to an existing lettings company which would have its own governance arrangements.

Question 3(b):

Will the Director, or Directors, be External?

Response from the Cabinet Member for Finance

Yes as it is an external company

Question 3(c):

By what date will this be set up?

Response from the Cabinet Member for Finance

The external letting company and these arrangements would be in place by the 1/4/24.

Paragraph 3.1 puts the projected total loss at around £5.1Million - dependent on sales and the valuation of the transferred assets.

Question 4:

Has the interest on loans continued to be added, to the outstanding amounts, during this close-down process?

Response from the Cabinet Member for Finance

The Council had continued to charge interest against all live projects.

Question 4(a):

What is the current 'Total Outstanding Amount' owed to the Council, by 3 Rivers, inclusive of interest?

Response from the Cabinet Member for Finance

As at 1/3/24 the total gross outstanding amount was £19.0m. Obviously, this sum would significantly reduce as loans were cleared/repaid as assets were transferred and/or sold by the 31/3/24.

Question 4(b):

How is the value of each asset being assessed?

Response from the Cabinet Member for Finance

By a combination of: external formal valuations, costs incurred to date and reference to selling agents advice.

Paragraph 4.1 states there must be a 3 month "no-trading" period and asks Cabinet for a reduction to one Director. So, 3 Rivers will continue as a Company until at least the end of June and its Director will have to be paid.

Question 5:

Does the projected £5.1Million loss figure include these continuing? Director payments and any costs, and assumed liabilities, of final closure?

Response from the Cabinet Member for Finance

Assessment had been made of the total costs and the revenue from sales in order to deliver the closure of the company. Clearly, some of these were still based on market estimates and would vary, but at the current point were deemed materially correct.

Mr Paul Elstone

Each of my questions relate to Agenda Item 8- 3 Rivers Soft Closure.

Question 1:

There have been various and confusing figures provided in terms of the TOTAL losses incurred due to 3 Rivers. £5.1 million being the latest. Given that previously reported impairments do not appear to have been included in the latest number, can the S151 Officer please confirm the exact amount of losses incurred by this Council to date ?

Response from Cabinet Member for Finance:

£5.1m was the first publically announced figure provided that estimates the full trading loss of 3Rivers – so it was interesting to reflect on your comments about various and confusing figures. The figure that had been provided in the report you refer to had been produced by the Council's S151 Officer and would include all previous calculations on impairments. As some of these calculations were still commercially sensitive a part 2 appendix had been included which showed precisely how the £5.1m had been calculated, including any previous impairment calculations. It should also be noted that these prior impairments and associated loss calculations were audited by the Council's external auditors.

Question 2:

Given a totally different set of numbers were provided to the Planning Committee in terms of Haddon Heights property prices when the S106 contributions were decided, has a provision been made for any S106 payment for Affordable Homes for Haddon Heights. If not, why not?

Response from Cabinet Member for Finance:

The housing market was clearly in a different place than when the initial viability assessment was prepared. It was also worth reflecting that during the project build out of this development that both material and contractor costs had also risen significantly. In order to reassure the questioner, I can confirm that the Council would need to ensure that all company liabilities, including any potential S106, were assessed, as part of the company closure process.

Question 3:

With the income from the 2 sold properties and the 2 sales still to be completed – will the Council have to set a very high cash equivalent figure, for the transfer of the 5 unsold properties, so they can say this development did not produce yet another financial loss?

Question 4:

The report, at paragraph 2.3, stated that: "A small working group of Council Officers and 3 Rivers Directors who are working to ensure that everything is completed by 31st March 2024 and Officers have continued to secure external advice as required".

On how many occasions have you contacted external advisors for advice?

Who were the organisations?

What external advice have you actually received?

Mr Barry Warren

My first question relates to item 4 on the Agenda – Minute 103. My questions, which I had submitted in advance, start on page 9. All my questions are shown in the minutes correctly. With the exception of the answer to question 2, all of the answers shown in the minutes are verbatim, as can be heard on the audio recording of the meeting - including your political statement of some 139 words before question 7 was addressed.

The answer shown in the minutes to question 2 is "We are not aware of contraventions or discrepancies with the approved planning permission."

The answer given by the Cabinet member for Planning, which was repeated, can be heard on the recording of the meeting. He said: “Yes they have been complied with. But if the former leader of this Council has material evidence to indicate that they have not, I would be pleased for him to write to me, so that I may investigate”.

This is completely different from the answer shown in the minutes.

Question 1:

Will Cabinet please have this minute corrected to show the actual answer given, before approving the minutes as an accurate record?

Response from the Leader of the Council:

Yes, when the Leader puts forward to Cabinet the minutes this amendment will be included to answer to the question at the previous meeting correctly.

Paragraph 2.3 refers to a ‘*Small working group of Council Officers and 3 Rivers Directors.*’

Question 2:

Who are the Council Officers in the Group please?

Paragraph 2.4 refers to transfer of assets to a new external management company.

Question 3:

What is the name of this company so that, in the interests of openness and transparency, interested parties can be aware of Directors etc.?

Paragraph 3.1 makes reference to projected losses being funded by ‘*transferring some funds from previously agreed earmarked reserves.*’ In a recent press article by the Leader, and at the recent Council meeting, he was critical of the previous administration in using £600,000 from reserves to balance the budget - which he voted to approve.

Question 4:

The budget for 2024/25 has been approved which uses reserves to cover losses so what is different this year from last year?

Paragraph 4.1 refers to a reduction of Directors to ONE to finalise any remaining transactions.

Question 5:

Who will that Director be and what procedures will be in place to ensure that the interests of the residents of Mid Devon are protected from any further losses?

124. 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.

125. MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting held on 6th of February 2024 were approved as a correct record and **SIGNED** by the Leader. This included the following amendment to the answer to Mr Warren's question 2 to read as "Yes they have been complied with, but if the former Leader of this Council has material information, please will he provide it in writing to me, so that I may investigate it". Cllr S Clist left the meeting at item 18.

126. CUSTOMER CARE POLICY

Cabinet had before it a report * from the Corporate Manager for Business Transformation & Customer Engagement on Customer Care Policy.

The Cabinet Member for Working Environment and Deputy Leader of the Council outlined the contents of the report with particular reference to the following:

- The Customer Care Policy and Standards had been reviewed every two years to provide guidance to staff including the expectation of Mid Devon District Council customers to remain (remain?) in line with best practice.
- The Policy had been recommended to Cabinet via the Community Policy Development Group that the Policy and Standards be adopted.
- The Policy and appendix covered general customer service across the Council and was not solely focussed on the Customer Services team who staff the contact centre and enquiries desk.
- Care Leavers, with a focus on Corporate Parenting, Mid Devon District Council had recently implemented a discounted Leisure membership and Council Tax exemption for care leavers. This followed on from a previous decision to discount Leisure membership for Carers. All of which improved service access to vulnerable or disadvantaged groups.
- The Single Equalities Scheme was approved by Cabinet on 4 April 2023. After the May 2023 elections, new Members had joined the Equality, Diversity and Inclusion Group to focus on continued work to ensure effective access to Council services.

Discussion took place regarding:

- As Mid Devon District Council obtains personal data of residents should reference to this be in the policy along with safeguarding?
- A reference number be issued to residents when receiving emails and calls as Members could follow up at a later date to find out the status.
- The standard response time for the acknowledgement of emails or writing by post on general enquiries or complaints.
- The 10 days response time on enquiry or complaints was?? adequate time to provide a response.
- The name of the service as stated in the appendix, would this be the case officer?
- Would the hearing loops in customer services area work correctly due to the work ongoing in the Phoenix Chamber.

RESOLVED that:

Cabinet recommend to Council that the Customer Care Standards and Customer Care Policy contained in Annexes 1 and 2 be adopted.

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

Note: * Report previously circulated.

127. **ENVIRONMENT EDUCATIONAL ENFORCEMENT POLICY**

Cabinet had before it a report * from the Environment and Enforcement Manager on Environment and Education Policy Review.

The Cabinet Member for Environment and Services outlined the contents of the report with particular reference to the following:

- The Street Scene Environment and Enforcement Team, together with Legal Services, had undertaken an internal review of the current policies in line with existing Government legislation and they were now up to date and fit for purpose.
- The importance of the work to ensure the recycling waste was disposed of correctly under the new 3 weekly bin scheme and Mid Devon District Officers take appropriate action where offences happen to keep the streets tidy.

The Environment and Enforcement Policy outlined the contents of the report with particular reference to the following

- Inclusion of a 50% discounted rate for a period of 14 days enabled the authority to show proportionate measures in respect of littering. Discounted periods had shown to increase the percentage of payments against such fines

Discussion took place regarding:

- Clarification around the 50% reduction in the fixed penalty notice.
- The form of poverty premium, those that could afford to pay immediately get discounted at 50% and those who cannot will have to pay in full.
- Evidence of littering those would receive a penalty with a discounted rate and this went against Full Council agreement on Poverty Premium.
- Those in position of poverty, would the policy be flexible in regards to payment terms or plan to be put in place?
- Evidence of other Local Authorities with receiving payments quicker at a discounted rate.
- To add to the policy for residents to contact the Enforcement Team if they were in financial difficulty.
- The sale of dogs in the stray dog policy and did the policy reflect the new legislation on XL Bully's and euthanasia?
- Stray dogs were held for a minimum period of seven clear days what was the maximum?

- In regards to waste and recycling, did Mid Devon District Council have the appropriate resources?
- Communal areas being used incorrectly when disposing of waste.
- The abuse when out in the community litter picking. How many officers were there on the ground to catch the perpetrators when littering.
- If the perpetrators were minors would they face prosecution in regards to littering?
- What was the cost of administration of a 14 day fine or 30 day? Would this period need to be changed due to people receiving monthly salaries to save further administration costs.
- Concerns around the serving of a Section 46 (1) Notice did not imply that a household was not managing their waste properly and, as such, the notices may be served on as many properties as appropriate to enable a consistent and fair approach to enforcement across the District.
- The concerns about the stage one of the enforcement procedures.

The Chief Executive made particular reference to the following:

- The remit of the Council to seek to take a proportionate review on individual cases.
- The element of discretion of how robustly the Council takes forward prosecution and legal matters.

RESOLVED that:

1. Litter Policy to be implemented to reflect Defra guidance on proportionate, effective, targeted, transparent and consistent approach to littering offences (Appendix F)
2. Amend the Fixed Penalty Notice (FPN) for littering to include a 50% discount for a period of 14 days from the date of the offence
3. Review and approve wording simplification:
 - Stray Dog Policy (Appendix A)
 - Littering from Vehicles (Appendix B)
 - Compulsory Recycling (Appendix C)
 - Fly Tipping minor wording amendment regarding FPN value (Appendix D)
Note Only- Agreed at Cabinet on 12 December 2023.
4. Approve Abandoned Vehicle Policy wording changes (Appendix E)

Proposed by Cllr J Wright and seconded by Cllr J Lock)

Note: * Report previously circulated.

128. **3 RIVERS DEVELOPMENT LTD - SOFT CLOSURE PROGRESS UPDATE**

Cabinet had before it a report * from the Deputy Chief Executive (S151) Officer on 3 Rivers Development Ltd – Soft closure progress update

The Cabinet Member for Finance outlined the contents of the report with particular reference to the following:

- Appraised Cabinet and the wider membership on the progress of the closure of 3 Rivers.
- Mid Devon District Council were on track for the company to cease trading on the 31st March 2024 and then an application for the company to be dissolved after the statutory period.
- The recommendations enabled the full closure of the company as directed by Full Council in a timely and most effective way.

RESOLVED that:

1. Cabinet note the progress and milestones achieved and those that would be completed by 31/3/24.
2. Cabinet resolved to dissolve the Company by way of Voluntary Strike off.
3. Cabinet resolved to the disapplication of the requirement under the Articles of Association/Shareholder (Governance) Agreement to have three Directors, and that there be one Director in post for the purpose of dissolving the Company after the 31/3/24.
4. The Cabinet Member for Finance be given delegated authority on behalf of the Shareholder to sign the final resolution(s) to close the company.

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

Reason for Decision:

To ensure the company is closed in accordance with the Companies Act 2006.

Note * Report previously circulated

129. **NOTIFICATION OF KEY DECISIONS**

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

One change had been made to this since the publication of the document with the agenda for this meeting:

The following items were added to the Forward Plan:

- Crediton Town Centre Masterplan SPD and Delivery Plan.
- Tenure Reform working group recommendations.
- New Corporate Plan.

The following items were deferred to a future date:

- Planning Enforcement Policy had moved to June
- Tenure Reform and Change's to the Tenancy Agreement- Project Plan moved to October

Note: * Notification of Key Decisions previously circulated.

(The meeting ended at 19.05pm)

CHAIRMAN

Cabinet 5th March 2024 Public Questions and Answers

Name of person submitting	Questions
<p>Barry Warren</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 11</p>	<p>My first question relates to item 4 on the Agenda – Minute 103. My questions, which I had submitted in advance, start on page 9. All my questions are shown in the minutes correctly. With the exception of the answer to question 2, all of the answers shown in the minutes are verbatim, as can be heard on the audio recording of the meeting - including your political statement of some 139 words before question 7 was addressed.</p> <p>The answer shown in the minutes to question 2 is “We are not aware of contraventions or discrepancies with the approved planning permission.”</p> <p>The answer given by the Cabinet member for Planning, which was repeated, can be heard on the recording of the meeting. He said: “Yes they have been complied with. But if the former leader of this Council has material evidence to indicate that they have not, I would be pleased for him to write to me, so that I may investigate”. This is completely different from the answer shown in the minutes.</p> <p>Paragraph 2.3 refers to a ‘Small working group of Council Officers and 3 Rivers Directors.’</p> <p>Question 2: Who are the Council Officers in the Group please?</p> <p>Cabinet Member for Finance: This group is attended by a number of senior officers from; finance, legal, HR and property.</p> <p>Paragraph 2.4 refers to transfer of assets to a new external management company.</p> <p>Question 3: What is the name of this company so that, in the interests of openness and transparency, interested parties can be aware of Directors etc.?</p> <p>Cabinet Member for Finance See the answer provided to Q3 of Mr Quinn’s request.</p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 12</p>	<p>Paragraph 3.1 makes reference to projected losses being funded by ‘<i>transferring some funds from previously agreed earmarked reserves.</i>’ In a recent press article by the Leader, and at the recent Council meeting, he was critical of the previous administration in using £600,000 from reserves to balance the budget - which he voted to approve.</p> <p>Question 4: The budget for 2024/25 has been approved which uses reserves to cover losses so what is different this year from last year?</p> <p>Cabinet Member for Finance Nothing has been agreed to be taken from reserves to balance the 2024/25 budget.</p> <p>Paragraph 4.1 refers to a reduction of Directors to ONE to finalise any remaining transactions.</p> <p>Question 5: Who will that Director be and what procedures will be in place to ensure that the interests of the residents of Mid Devon are protected from any further losses?</p> <p>Cabinet Member for Finance: This appointment is still to be determined.</p>
<p>Paul Elstone</p>	<p>Each of my questions relate to Agenda Item 8- 3 Rivers Soft Closure.</p> <p>Question 3: The Bampton Haddon Heights site Viability Report went to the Planning Committee with a Land Value of £213,000 - 3 Rivers were expected to make a profit of JUST 10.6% on the development. But when 3 Rivers went to Cabinet for funding, they showed a payment £420,000 for the land and that 3 Rivers had reduced their construction costs estimates this in order to show an increased profit and in support of obtaining loan agreements,</p> <p>With the income from the 2 sold properties and the 2 sales still to be completed – will the Council have to set a very high cash equivalent figure, for the transfer of the 5 unsold properties, so they can say this development did not produce yet another financial loss?</p> <p>Cabinet Member for Finance: It is currently anticipated that any remaining unsold properties will be acquired by the Council at a market value.</p>

Question 4:

The report, at paragraph 2.3, states that: “A small working group of Council Officers and 3 Rivers Directors who are working to ensure that everything is completed by 31st March 2024 and Officers have continued to secure external advice as required”.

On how many occasions have you contacted external advisors for advice?

Who were the organisations?

What external advice have you actually received?

Cabinet Member of Finance:

The Council has secured; legal, financial, governance and HR advice from a number of companies over the past few months. The details of this advice is currently commercially sensitive information.

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