

Written Answers to Public Questions – Special Audit Committee 30 April 2024

Barry Warren

My questions relate to item 6 on your agenda:

At the Cabinet meeting on the 16th February 2024 I asked a number of questions relating to finance. The Leader made a response which commenced with this sentence:

*“When this administration took control of the Council in May last year, it inherited the **significant financial mess** that had been left by the previous administrations.”*

On page 62 of your papers at paragraph 3.19 the Deputy Chief Executive (S151 Officer) in the first paragraph of his Conclusion writes:

*Overall 2022/23 should be considered a successful year with the outturn position for the General Fund and Housing Revenue Account delivered close to, or within, budget. The Council’s performance was strong with the vast majority of our performance targets achieved, despite the significant financial pressures and strain on resources experienced. **This achievement should be celebrated.***

Question 1

There appears to be a direct conflict between the Deputy Chief Executive, S151 Officer, and the Leader of the Council. Can you advise which statement is correct please?

Response from the Chair of the Audit Committee

The Leader was referring to the Budget and financial position being inherited moving in to 2023/24, whereas the Deputy Chief Executive (S151) was commenting on the overall financial outturn delivered in 2022/23. So there is clearly no conflict, as the questioner is attempting to imply and I can therefore confirm both statements are correct.

Question 2

If the Audit Committee approve the FINAL version of the annual Statement of Accounts and formally sign the two documents as recommended in Section 1 on page 25 of your papers, will this signify that Audit Committee support the view expressed by the Deputy Chief Executive, S151 Officer in his Conclusion and celebrate the achievement?

Response from the Chair of the Audit Committee

Yes.

Question 3

On page 152 of the Draft Accounts (page 184 in your bundle) you will see the salary of the 3 Rivers Managing Director was £80,862 for 2022/23. That Director has resigned and been replaced - please will you tell me what is the salary being paid to the current Managing Director?

Response from the Chair of the Audit Committee

As per statutory legislation this salary will be disclosed as part of the Council's year end accounts for 2023/24.

Nick Quinn

Concerning Agenda Item 7 – Audit Findings:

Issued late, with the Grant Thornton Audit Findings Report, is a Supplementary “*Post Audit Adjustments*” paper.

You will see on page 42, of the supplementary papers, it states that “*To achieve the “soft close” all of the assets held by the company will need sold or transferred to Mid Devon District Council by the end of March 2024*”.

My questions are about these transactions - which, by now, will have taken place.

“St George’s Court is being sold to the Council for £8.15 Million”.

Question 1

Did the Council Pay £8.15M for this or was this Asset Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The £8.15m was the negotiated sales/purchase price agreed between the Council's Housing Revenue Account and 3Rivers

“Knowle Lane, Cullompton, will be sold to the Council at book value of £3.66 Million”.

Question 2

Considering the amount paid for the land in 2019, and the value ascribed to it in the Large Housing Sites Options Report presented to Cabinet in August 2023, the amount of £3.66 Million seems very high indeed. It is said to be a “*book value*”, but in whose “*book*” was it listed at this value?

Response from the Deputy Chief Executive (S151 Officer)

This was the carrying value in 3Rivers accounts.

Question 3

Did the Council Pay £3.66M for this or was this Asset Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £3.66m.

“Any unsold units at Hadden Heights, Bampton, will be bought by the Council at the marketed price of £3.135 Million”.

Question 4

Did the Council Pay £3.135M for these or were these Assets Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £3.135m.

“The investment property will be bought by the Council at book value of £180,000”.

Question 5

Did the Council Pay £180,000 for this or was this Asset Transferred at this value to satisfy an outstanding loan amount?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £180k.

Addressing the Parking Spaces at Halberton.

Question 6

How many parking spaces did the Council acquire from 3 Rivers?

Response from the Deputy Chief Executive (S151 Officer)

5

Question 7

What was the total value of these spaces?

Response from the Deputy Chief Executive (S151 Officer)

£21.7k

Question 8

Did the Council Pay 3 Rivers for these spaces or were these Assets Transferred at this value?

Response from the Deputy Chief Executive (S151 Officer)

The Council paid £21.7k

The paper did not address the amounts previously impaired on projects:

Question 9

Do any of the above amounts include previous impairment amounts?

Response from the Deputy Chief Executive (S151 Officer)

No, impairment amounts only related to our end of year calculations on outstanding loans. This was based on the likely level of loan repayment that was estimated to be received, based on all available market information at that time.

Paul Elstone

Question 1

At the Audit Committee Meeting of the 26TH March Council, Officers were highly commended for recovering £150,000 from 293 local residents wrongly claiming single occupancy Council Tax discount. This is equivalent to around £500 per individual.

In March 2023 a complaint was made to the Monitoring Officer concerning an Elected Member benefiting from a grossly incorrect Council Tax Banding. This as the result its believed, due to an agricultural occupancy discount and which they were not entitled also a serious breach of Planning Permission going back to 2001. No action was taken.

It is important to state that the person concerned was an elected Member of this Council when the serious breach occurred, also when the complaint was made. That they have been both the Leader and Chairman of this Council.

The Monitoring Officer responded to the complainant by saying:

Quote: *"I would find that the alleged misconduct happened some 20 years ago and that taking further action would be disproportionate to public money and officer's time"*. Unquote:

Had the correct banding (probably F or G) been properly declared by the Councillor from the very first day of occupancy in 2001 the Councillor would not have underpaid Council Tax by over £30,000 and by £1,800 this year alone. The property was only put into Band C for Council Tax, probably based on the 3 bedroom bungalow submitted plans and assumptions concerning agricultural occupancy agreements.

The situation arose when Planning Permission was granted for the building of a 3-bedroom bungalow, with an agricultural worker tie. The building in fact constructed was a house, with first floor, accommodating 5/6 bedrooms, five bathrooms, dedicated office space and consulting room all in addition to kitchen, utility room and extensive living/dining room. A property that was specifically built in breach of the Planning Permission which one of the occupants has openly admitted.

I am aware that several current Members of this Council are unhappy with this position and quite rightly so. One in fact who encouraged the investigation and complaint.

Will this Audit Committee agree that a full investigation is warranted as to why the Monitoring Officer failed to progress the complaint and that it would be in the public interest to do so?

Response from the Director of Legal, HR and Governance and Monitoring Officer:

As Mr Elstone is aware Code of Conduct Complaints are confidential and are investigated by both the Monitoring Officer in conjunction with an independent person. However, I can confirm that the complaint was progressed as it was investigated and a decision to the complainant was provided. Any increases to council tax bands on a property are subject to relevant transactions such as when a property is sold or when it is leased for a minimum of 7 years – this is normal practice and is in accordance with the relevant legislation. There are hundreds of properties in Mid Devon's area alone and thousands nationally which will have improvement indicators from improvements to properties which will be actioned in accordance with this legislation when they are sold etc. This answer has also been provided to Mr Elstone previously by the Corporate Manager of Revenues, Benefits, Corporate Recovery, Corporate Fraud, Welfare & Leisure. Therefore there is no need for a further investigation.

Question 2

This is not an isolated example of the Monitoring Officer failing to investigate alleged Member and Officer misconduct complaints. This where there is a clear public interest to do so and with substantive evidence available. This including the Bampton site land purchase. Other examples are available.

Will this Audit Committee fully investigate these matters. This including the Monitoring Officers own, and it's believed obvious failures. Failures which are bringing this Council into disrepute?

Response from the Director of Legal, HR and Governance and Monitoring Officer:

The Monitoring Officer works closely with the Independent Persons on every code of conduct complaint that is received and reviews all evidence that is provided. It is unfortunate if some members of the public do not agree with some of the decisions that are made, this may be as they are not aware of all the facts of a matter or of relevant legislation. There is no need for the Audit Committee to investigate this.

Mr Elstone previously raised these alleged issues with the Bampton Site at Audit Committee and these were subsequently investigated by the external body Devon Audit Partnership (DAP). Mr Elstone was asked to provide any evidence he held and this was provided to DAP. The findings where that DAP could not substantiate any of the allegations that Mr Elstone made. No further evidence has been forthcoming.

Question 3

Will this Committee ensure that full and necessary remedies are enacted and as a visible deterrent. This as other Councils do?

Response from the Director of Legal, HR and Governance and Monitoring Officer:

The Council takes relevant action when it is required to do so.

Question 4

Will this Committee do what is required to ensure correct Council Tax is paid and if possible, retrospectively

Response from the Director of Legal, HR and Governance and Monitoring Officer:

The Council tax bandings are allocated by the Valuation Office Agency (VOA) and not the billing authority. The Council reports changes to properties which allows the VOA to make a decision as to whether there is change now or in the future.

Question 5

Can it be understood why more and more residents of this council are publicly questioning then exposing the cover-up culture that seems to pervade this Council including challenging those who promote that culture?

Response from the Director of Legal, HR and Governance and Monitoring Officer:

There is no cover up and as Mr Elstone is aware the case referred to was in accordance with council tax legislation and therefore no further action was required.