

Audit Committee Public Questions and Answers (25th June 2024)

Name of person submitting	Questions
<p>Paul Elstone</p>	<p>QUESTION 1</p> <p>Industry Data published in April 2024 reveals that the relative mid-range building cost for the South West of England is £1,860 per square metre.</p> <p>Also data available that shows the additional cost increment for Nett Zero builds is only around 4 percent and for the Passivhaus between 6 and 8 percent. A standard that ZED PODS modules do not meet.</p> <p>Yet the total building cost for the ZED PODS modular homes for St Andrew Cullompton was £4,778 per square metre or put another way it cost £155,000 per bedroom. This for a simple to develop brownfield site with little ground works.</p> <p>For Shapland Place the cost was a massive £170,000 per bedroom</p> <p>For the avoidance of doubt the current per bedroom selling price of Commercial new builds are:</p> <p>Persimmon, in Cullompton, is £95,000</p> <p>Bellway, in Willand, is £103,000</p> <p>David Wilson – upmarket- Homes in Tiverton are £110,000</p> <p>Unlike the ZED PODS developments, these are Greenfield developments where the developer needs to purchase the land and build the infrastructure plus pay very substantial S106 and affordable home costs.</p> <p>The cost of each bedroom at St Andrews, Cullompton is £60,000 more than a Persimmon bedroom.</p>

Under no circumstances can the modular home developments being built for this Council be called “Best Value”. In fact this Council could have nearly two (2) houses for every one (1) they are currently getting and to the same or higher energy and sustainable standards.

Will this Audit Committee urgently investigate the full circumstances involving the grossly excessive expenditure on modular homes - before this Council commits to further purchases ?

Cabinet Member for Housing, Assets and Property:

Please refer to the full response provided to your Question 1 at the Cabinet meeting of 4 June 2024 as published at (Public Pack)Written Answers to Public Questions on the 4th June 2024 Agenda Supplement for Cabinet, 04/06/2024 17:15 (middevon.gov.uk)

QUESTION 2

Evidence available reveals the following potential modular build risk.

1. It is widely reported that there is a suppressed UK Government Report which has identified potential fire and structural integrity risk with modular homes.

Cabinet Member for Housing, Assets and Property:

Thank you for highlighting the article published by Inside Housing in September 2023 which references possible government commissioned research report dating back to 2022 but does not provided any further supporting information. In particular, the article does not set out any context with regard the scope or content of the research with only generalised reference to volumetric MMC construction which covers many different forms of construction and specification. Given report is not published, we are not in position to speculate further as to the alleged risks highlighted or with regard to any relevance to the specification of modular homes the Council has commissioned which are not mentioned in the article.

2. The UK National Fire Chiefs Council have raised fire risk concerns, referencing that they consider the current Building Regulations are not tight enough including a lack of modular home fire testing. This should be of particular concern with modular homes built over car parking - like Shapland Place

Cabinet Member for Housing, Assets and Property:

Fire safety is of critical importance to us. The UK NFCC is the national fire service professional body that lobbies for improved fire safety. As such, it understandably advocates for zero fire deaths and to deliver continued improvement in fire safety for our communities. We welcome this mission and recognise that the NFCC publishes many position statements and guidance documents across the breadth of the construction industry, including those outlining potential new or improved standards across both the traditional and modular build sectors. Following further work and research, some of this work may influence future building regulation standards or other legislation which all relevant construction bodies and organisations must comply with.

Nonetheless, whilst the circular of November 2022 referred to makes general mention of MMC construction as a whole, it does not highlight the different design and specification approaches employed across this broad sector. Furthermore, to our knowledge, the circular does not specifically relate to any concerns regarding homes built over car parking, which are of course common in both traditional build and modular development schemes. Where a level of detail is provided, there is an emphasis within the circular with regard to potential risks arising from timber framed and high-rise MMC building, neither of which are applicable to the steel frame, low-rise units commissioned in Mid Devon. There are additional key enhancements to the Zed Pods build system from a fire safety perspective set out below which provide further assurance regarding our commitment to fire safety.

The Zed Pods modular buildings and construction processes are best placed to excel under the 2022 Building Safety Act. Under the Zed Pods build system all materials used are A-rated for fire and have full fire stopping logs in compliance with the “golden thread”, enhanced by investment in digital technology and record keeping. This reflects an overall enhanced quality management approach and material choices. All materials carry performance declarations and/or BBA (British Board of Agreement) certificates.

Zed Pods have a rigorous and robust system of supervision and inspection, detailed photo-logs during construction and ISO 9001 approved inspection regimes. This covers the installation of fire safety measures, training of installers and defines clear design responsibilities. As ISO accreditation, it provides independent and transparent assurance with regard to the high levels of training and competency standards employed throughout with full control being in place over design, manufacture, installation and build. This ensures best practice in volumetric build is entrenched, for example, covering cavity fire stopping and ensuring consistent installation in accordance with the system’s fire resistance requirements. These homes only use materials and products that are tested for fire stopping and properly installed, and that installation during stacking and connecting the modules is in accordance with the installation manual and verified.

All the housing modules use Stone wool insulation (again A-rated) and no combustible insulation materials or cladding are ever used. The module party walls are fire resistant up to 60 minutes on both sides of the wall, effectively giving the modules 120 minutes before a fire in one module would break through to the next. This is well above the requirements under current building regulations. Also, none of the modules use shared structures so are structurally independent. The same is also the case for the floors. Furthermore, the units do not have any unfilled cavities for fire to spread and do not use OSB sheathing board (engineered wood) but instead use A-rated cement board.

A large Zed Pod scheme built over the carpark in London was reviewed by the London Fire Service and was completed post-Grenfell so underwent high levels of scrutiny and passed in full. The scheme has been occupied since practical completion in December 2022. In addition, the homes in Mid Devon also include remote monitored sensors for smoke heat and moisture detectors to provide an extra layer of monitored fire safety, which is again above current building regulation requirements for fire safety.

Since these questions were presented at Audit committee, we note that you have provided further information on request including reference to Caledonia modular projects and past media reports referencing fires at ‘Fair isle bird observatory’ or ‘Moorfield Hotel in Brea’. Zed Pods have no connection to these schemes or the contractors involved with the homes being provided in Mid Devon being completed to a significantly different design specification and build. In particular, we are aware potential issues at these schemes relate to OSB sheathing and a lack of fire cavity barriers which are not applicable to the Zed Pods design and installation as set out above. The only thing these schemes have in common with the Zed Pod homes is they are modular, off-site build not traditional on-site.

3. The life of modular homes estimated at 60 years, to 100 years maximum, against over 150 years for conventional builds. Impacting on insurance.

Cabinet Member for Housing, Assets and Property:

Most traditional or conventional build schemes have core components of their build that should achieve a minimum overall 60-year design life for the property, nonetheless with many items requiring renewal or replacement sooner, for example roofs, windows/doors with issues often arising within traditional block and brick construction due to poor masonry standards and on-site quality control. Nonetheless, built well, adequately maintained and renewed as required then these properties will last longer

If properly maintained Zed Pod buildings will last in excess of 120-years and are designed so from conception. Traditional finishes need maintaining to preserve the life of standard buildings, for example traditional tiled roofs need maintaining to ensure longevity so building maintenance and this is not specific to MMC building only. In addition, by means of example, the buildings supplied to Mid Devon and other customers are steel framed, the windows are solid timber then aluminium clad and have an 80+ year design life. This is well in excess of the traditional UPVC double glazed unit that have a below 20-year lifetime. Building materials that can degrade are minimised, for example stone wool products will not decay since they are inorganic, so they will retain their properties assuming no physical damage occurs. Service cavity and finishing design protects the insulation from physical damage where more traditional build schemes can be vulnerable. Internally, another example of enhanced durability is our kitchen carcasses which are thicker to give a longer usable lifetime.

Overall, the buildings have been reviewed by ICW warranty providers who provide Zed Pods building warranties under standard terms and the independent BOPAS accreditation ensures the buildings are also approved for mortgages.

ICW are one the most respected building warranty providers nationally and are one of only a few UK warranty providers to have had their systems and procedures fully certified by the Chartered Trading Standards Institute. 97% of mortgage lenders, based on volume, are served by ICW.

Quality is an essential consideration here and another way in which Zed Pods positively differentiate from the much of the volume traditional build sector being compared to. The company holds full ISO 9001/14001/45001/19650 accreditations. These buildings have an in-depth and independently verified structurally engineered approach. Zed Pods engineers use CENG, MISTRUCTE, MICE, AAPS accredited personnel. They are also Approved Certifiers of Design (Building Structures) and cover all aspects of the building structure. They further hold SCI membership, NHBC accreditation, TRADA membership and more. Full details and more information on these competencies, accreditations and memberships is available on request.

Zed Pods have built homes in London, Bristol, Devon, Sheffield, Peterborough and more. As such many different local authority building control inspectors have reviewed and approved their designs. This also includes local authority and private sector building control inspectors. Each home also comes with a new home warranty.

MMC construction systems have always been exposed to much greater critical scrutiny than traditional build because it is perceived to be new and therefore represents a perception of risk. However standards within the MMC sector and Zed Pods in particular are far higher as a result of enhanced design, quality control, factory build

and the level of scrutiny that exists in comparison with the traditional build sector where poor quality workmanship and materials can predominate and where through-life costs are much greater.

4. Wind loading and snow loading risks have caused modular builds in Cornwall to be shut down.

Cabinet Member for Housing, Assets and Property:

I understand this is relation to two primary schools in Cornwall that were only part-built by Caledonian Modular when it fell into administration in March 2022. This company and its design and build specification for these schools had no connection with Zed Pods Ltd. Based on report from the Architects Journal, the Architect at the time had concerns that the contractor was not building the homes to the approved design and that the contractor in question was also no longer in business. Zed Pods are designers, manufacturers and builders with full control the build from design, planning, manufacture and onsite construction. This is further overseen by the company ISO 9001/14001/45001/19650 accreditations.

Furthermore, these schemes have no similarities to the Zed Pods residential build system which has an in-depth and independently verified structurally engineered approach. As set out under Point 3 above, Zed Pod engineers use CENG, MISTRUCTE, MICE, AAPS accredited personnel. They are Approved Certifiers of Design (Building Structures) and cover all aspects of the building structure. They hold SCI membership, NHBC accreditation, TRADA members and more.

All Zed Pod modules have been fully engineered for snow and wind loads in multiple exposure locations in the UK and site-specific design and engineering takes these factors into account. This is independently validated and reviewed by building control, insurance backed warranty providers, BOPAS etc. where the company exceeds minimum standards and achieve best practice in design, energy performance, operation and maintenance.

5. Overheating risk and with internal temperatures in excess of 36 Degrees C being reached in the ZED POD'S modules in Bristol.

Cabinet Member for Housing, Assets and Property:

all Zed Pod buildings exceed Building Regulation Part O requirements. This includes the St Andrews scheme within Mid Devon designed just before Part O formally came into force in 2022 as well as all schemes either recently completed or in pipeline.

The homes include both passive and active cooling technologies where required. A combination of user misunderstanding and an extreme short-term heatwave lead to the instance of over-heating at one property in Bristol as the tenant thought that they could not open the windows which was addressed through post occupancy aftercare service and monitoring. The Zed Pods monitored data platform has led to awards and accolades in addressing both winter heating demand and summer overheating. It is also worthwhile highlighting the high levels of user satisfaction achieved in Bristol over several years post-completion and the repeat work Zed Pods have with that and other Councils.

In a separate follow-up communication on this point, I am aware you have asked whether Zed Pods have undertaken full Dynamic Thermal Modelling for the modular developments provided to MDDC and if so, have a copy been made available to MDDC? You go on to highlight that Dynamic Thermal Modelling is mentioned in Section 2 of Building Regulation 'O' and with particular reference to residential buildings with very high levels of insulation and air tightness. We can confirm that whilst such modelling was not a direct requirement for the purposes of Part O compliance, nonetheless, a full modelling assessment has been carried out for Shapland Place using the approved TM59:2017 Design Methodology for the assessment of overheating risk in homes. This was carried out by an independent, accredited specialist consultancy and the report has been provided to the Council. The building fully passed the required assessment.

6. Mould risk.

Cabinet Member for Housing, Assets and Property:

As recent high-profile cases have tragically highlighted, mould and damp risks can be prevalent across many different types of housing including older and modern traditional build properties. The Council have been at the forefront of assessment mould and damp its own stock and recent won an award for its approach Council recognised for its damp & mould response (middevon.gov.uk).

The Government have recently introduced Awaab's law which places new responsibilities on us as a social housing landlord to ensure the well-being of our tenants. As such the Council places particular importance on this issue and seeks to design out or minimise risks in its new build properties as well take proactive steps with its existing stock. It is important to note the effective design is only one consideration in damp and mould situations where occupation and property use are also factors alongside property maintenance, testing, education and guidance.

Mould risk has been consequently been carefully considered in all recent schemes the Council has completed, whether traditional or modular build. With respect to the Zed Pods properties, they have breathable wall build that

	<p>prevents moisture build-up without compromising airtightness or thermal performance. This means moisture cannot accumulate in the wall build-up which protects the existing structure from deterioration. The building sandwich the membranes between sheathing boards so that membranes are both bonded and mechanically fixed to prevent delamination and ensure performance in the long term. This is an enhancement that not all modular design or other types of construction have. Furthermore, the MVHR linked heating and ventilation systems in the Zed Pod units prevents the mechanical ventilation being wholly switched off so the building is continually ventilated in a controlled manner.</p> <p>We understand that Zed Pods have had similar or same design specification buildings in constant occupation since 2020 without any damp or mould issues being reported.</p> <p>Question 3: Given these modular home risks, coupled with excessively high expenditure, is this not a case of Double Jeopardy for this Council. Will this committee call for an expert and fully independent investigation?</p> <p>Cabinet Member for Housing, Assets and Property: We are satisfied that Zed Pods strive for best practice, not minimum standards which is not always the case in the construction industry. All our commissioned modular buildings have been inspected by experienced building control inspectors, warranty providers, and independent experts such as BOPAS and others as set out in detail above. We have taken all reasonably practical measures to ensure fire safety and best practice in fire safety alongside enhanced overheating protection and damp and mould control being in place. Overall, we are providing durable, sustainable, high specification homes to a net-zero carbon standard with wider regeneration benefits to our communities through the schemes we are bringing forward.</p>
<p>Nick Quinn</p>	<p>Q1. On page 79 of the accounts, there is a list of the assets bought from 3 Rivers and the amounts paid for each - but the Halberton Car Parking spaces and the Architectural drawings for the failed Park Nursery development, both bought from 3 Rivers, are not on the list. Why are these purchases and amounts not listed?</p> <p>Response from the Cabinet Member for Governance, Finance & Risk: Both the Halberton Car Parking spaces and Park Nursery were not part of the close down of the company. They were actioned earlier in the financial year as part of ongoing business following decisions by Cabinet – in the Case of Halberton to purchase the spaces, and in respect of Park Nursery following the decision to cease all new development work.</p>

Q2. How much was paid for the Park Nursery Architectural drawings? and on what date?

Response from the Cabinet Member for Governance, Finance & Risk:

Please refer to Appendix 4 supporting the 2023/24 Outturn report presented to Cabinet on 4 June 2024.

Q3. The Council paid £3.66M for the Knowle Lane land, which was valued at only £1.66M. It was already known that this land was not worth £3.66M - so this purchase breached the Council's Financial Regulations on the Acquisition of Assets, which state that: "*All purchases or leasing of land and buildings shall be on the best financial terms that can be obtained for the Council*". Will Audit Committee please look into this breach?

Response from the Cabinet Member for Governance, Finance & Risk:

Please refer to the response previously given by the Cabinet Member for Governance, Finance & Risk to the question on this topic at the Cabinet meeting of the 4 June 2024.

Q4. On page 62 of the accounts, it says that the loss on 3 Rivers loans was £6.8M but also "*the revaluation of assets purchased... resulted in a 'notional' loss of £2M*". **This is not a 'notional' loss – it is real.** This Council overpayment for assets, allowed 3 Rivers to repay loans which it would not otherwise have been able to do. Will Audit Committee agree that if this £2M overpayment had not been made, the total loss of loans to 3 Rivers would have been £8.8M?

Response from the Cabinet Member for Governance, Finance & Risk:

Please refer to the response previously given by the Cabinet Member for Governance, Finance & Risk to the question on this topic at the Cabinet meeting of the 4 June 2024.

Q5. A Revenue and Capital Outturn report went to Cabinet on 4 June 2024. In that report, the loan loss figure, shown as £6.8M, was 'reduced' to 'only' £3.384M by subtracting all the Interest and Recharge payments ever received from 3 Rivers during the whole of the previous six years. I understand that this declared income was spent in each of those years, therefore it cannot be 'resurrected and reused' to discount a very real monetary loss in this year. Will Audit Committee confirm that this attempt to 'reduce' these real losses in this year, is not acceptable?

Response from the Cabinet Member for Governance, Finance & Risk:

The Outturn reported the full position over the lifetime of the company, broken down by year. Overall, the loans written off summed to £6.8m however £5.317m of this had been actioned in prior years. In 2023/24 the final

	<p>impairment required was £1.483m as reported. The interest received supported the council throughout the lifetime of the company.</p>
<p>Barry Warren</p>	<p>My observations and questions are stimulated by Item 10 on your agenda – in particular the Annual Governance Statement and the principles listed in paragraph 1.5 [pages 209/210] covering Codes of Practice and Ethical Aims.</p> <p>At the Annual General Meeting of the Council on the 22nd May 2024 the Leader gave a report, which is minuted, and the relevant point stated: <i>“The 2024/25 budget was set <u>without any use of reserves</u>, was fully balanced and was unanimously supported across the political spectrum.”</i></p> <p>In a report to Cabinet on 6th February 2024 headed 2024/25 Budget at paragraph 4.2. the Cabinet Member for Finance states: <i>“Appendix 1 (p39) shows in detail which amounts are being contributed to, or drawn down from, various earmarked reserves in 2024/25. This totals a net reduction in Earmarked Reserves of £840k.”</i></p> <p>Paragraphs 4.3 and 4.4 describe in detail how this net reduction in Earmarked reserves of £840k is arrived at.</p> <p>Paragraph 4.7 states <i>“No draw on General Reserves is required to support the 2024/25 Budget”</i>.</p> <p>Having previously been accused by the Leader of using “reserves” to balance the budget, I felt that I should question his unqualified statement to the Council AGM.</p> <p>At the Cabinet meeting on 4th June 2024 I asked public questions regarding the use of reserves. The answer I received differentiated between “Reserves” and “Earmarked Reserves” and was further complicated by referring to their use being dependent on specific one-off situations or on-going expenditure nature, etc.</p> <p>Question 1. In the interests of openness and honesty; will the Audit Committee please look into the preparation of the 2024/25 budget and make a statement on whether ‘Reserves’, of any description, have been used in setting it?</p> <p>Response from the Chair of the Audit Committee: A net £841k of Earmarked Reserves were used in the 2024/25 to support planned expenditure, such as maintenance of our assets, previously agreed contributions to S106 legal commitments and a range of sinking</p>

	<p>funds for essential asset maintenance/repairs. This is normal practice and has been an integral part of our budget planning for many years.</p> <p>This is significantly lower than the £1,725m required in 2023/24. However, no use of General Reserves was included within the 2024/25 budget, whereas within the 2023/24 budget £625k was included for unplanned, or ongoing expenditure, which was the point being made by the Leader.</p> <p>Question 2. In the interests of openness and honesty; if the Audit Committee find that 'Reserves', of <u>any</u> type, have been used in the setting of the 2024/25 budget, will they ask the Leader to make a public correction to his statement to the Council AGM on the 22nd May 2024?</p> <p>Response from the Chair of the Audit Committee: Based on my answer to Question 1, I am content with the budget overview provided by the Leader and therefore feel there is no need for any correction to be made.</p>
<p>Hannah Kearns</p>	<p>Question 1</p> <p>In the Draft Accounts, on page 147, is an Earnings table. I am interested in the figures for the Managing Director of 3 Rivers for 2023/24. Note 7 to that table says the Managing Director was made redundant on 31 March 2024 and received the redundancy package commensurate with the length of service. Given it is known that the Managing Director was only directly employed by 3 Rivers from 1st April 2021 that is only three years' service with the Company before he resigned.</p> <p>The Compensation and Pension Contribution figures seem excessive for someone with only three years of service and at £143,264</p> <p>Was three years the length of service used in the calculation of the redundancy package?</p> <p>Cabinet Member for Governance, Finance and Risk - No</p> <p>Question 2</p>

If not, what was the length of service used?

Cabinet Member for Governance, Finance and Risk -The applicable length of service included the previous service at Mid Devon District Council in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Question 3

Was some other 'special arrangement' made to arrive at these figures?

Cabinet Member for Governance, Finance and Risk -No – This was the contractually due settlement and confirmed by external legal advice.

Question 4

What was the total cost of the 2023/24 Salaries, Compensation and Pension Contributions for all the 3 Rivers Directors put together?

Cabinet Member for Governance, Finance and Risk - From the company's draft accounts, the Directors' remuneration for the year was £347k.

Question 5

Where any redundancy payments made to the employees of 3 Rivers?

Cabinet Member for Governance, Finance and Risk - Yes, three further employees were also made redundant in line with their contractual entitlement.

Question 6

If so what was the total amount?

Cabinet Member for Governance, Finance and Risk - The total cost was less than £10k.