

Public Document Pack

Answers to public questions

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Scrutiny – Call in Public Questions:

Nick Quinn, local resident asked:

1. The wording of the Cabinet Decision does not make it clear where the funds for the increased loans, of £2.28M, will come from.

Question 1: Will the increased loans be funded by a reallocation within the agreed budget funding of £19.66M for 2022/23 - or an addition to that sum?

This was stated clearly both at Cabinet and at Scrutiny.

The additional sum remains within the current agreed funding of £19.66m for 2022/23

2. The level of public interest in 3 Rivers, and this decision, is high. Based on the published report, the public asked Cabinet some very pertinent questions about this funding request.

Question 2: Why have Scrutiny Committee only been provided with a Minute extract which contains the answers given to most of the Public Questions - but does not contain any of the Questions they asked?

In line with our normal practice, the questions are included within the specific minute associated with the Public Questions agenda item (in this case minute 47 of the 6 September Cabinet meeting). However, the answers are included within the relevant agenda item (in this case minute 55 of the 6 September Cabinet meeting).

A call in requires the minutes specific to the decision being called in (hence the extract, minute 55 of the 6 September Cabinet meeting) was provided.

The answers shown in minute 55 were answers given during the meeting. Written answers were dealt with in accordance with the constitution.

3. Public questions were asked about the lack of Audit and Scrutiny input to this loan request and Risk. The only statement regarding risk was given verbally, at Cabinet, by Cllr Moore - who said: "Were Cabinet not to approve these loans, to cease funding the projects prior to completion, there would be a sudden and significant threat to the Council's investment". Given the gravity of that statement, the lack of any mention of risk in the published report suggests that risks are not being properly acknowledged.

Question 3: Will Scrutiny please include, in any recommendation to Cabinet, a request for a proper consideration of risk before any re-appraisal of this funding decision is undertaken?

The agreed resolution included a request for Audit Committee to consider a revised Business Plan and any associated risks.

4. In the Cabinet Minute extract before you, Cllr Moore states that 3 Rivers' projected spend for 2022/23, including the extra loans, would be considerably less than the total figure budgeted by Council. You should note that Cllr Moore's figures were only "projected" and were only given verbally - his words are unsupported by any published information.

Cllr Moore also forgot to mention that the Council approved this budget total, on the basis of an agreed Business Plan for 6 development projects – some of which are now not being undertaken - and that this funding request covers more than 10% of that approved total.

Question 4: Will Scrutiny Committee please consider, in their deliberations, whether sufficient, reliable, information has been put forward to justify this significant Cabinet key decision?

Scrutiny Committee did consider whether sufficient information was available and resolved to request a new business plan be reviewed. All future completion costs and sales figures are inevitably estimates, however these were published in Part 2 papers, and were provided by external professional assessors.

Mr Elstone, a local resident stated:

QUESTION 1

Do the majority of this Scrutiny Committee agree with business focused members of the General Public?

That MDDC are becoming INCREASINGLY and UNACCEPTABLY exposed to a risk of 3 Rivers SUBSTANTIAL BAD DEBT

Especially CONCERNING in these AUSTERE TIMES.

A Motion to consider this specific question was not debated by the Committee and therefore no further answer can be given. The decision to increase the loan agreements does not increase the Council to greater risk of bad debt as the value remains within existing approved borrowing envelope and a prudent, independent, professional valuation of the possible sales receipts from these developments indicates the returns remain broadly the same as previous forecasts.

QUESTION 2

Why are MDDC Cabinet so easily prepared to lend a further near three million pounds to 3 Rivers and without an updated business plan in place? Especially as it is understood that the revised Business Plan is due for release in October.

This is a question to Cabinet not Scrutiny so cannot be addressed. However, it should be noted that the point was answered at Cabinet on 6 Sep 22. This is a decision on specific business cases which individually maintain the previously forecast positions for each development.

Additionally, without the results of the 3 Rivers Internal Audit being made available.

This with internal auditors being engaged on or before May 2022.

QUESTION 3

Can the Scrutiny Committee Members understand why members of the General Public find it totally unacceptable even outrageous that 3 Rivers supported by the MDDC Cabinet are wanting to borrow substantial additional funds due to the St Georges Court project overspend?

As stated in the response to Q2, this is a decision on specific business cases which individually maintain the previously forecast positions for each development. Not approving the release of the additional funds would prevent the developments from being completed and therefore prevent sales income being generated to repay the outstanding loans.

This given the extra funds to be in part used to pay for the construction of a parking court that has been completed yet does not have planning permission.

Additional funds that are it seems will be very likely to be added to the already seven hundred- and ninety-thousand-pound St Georges Court impairment amount.

QUESTION 4

Given the urgency in MDDC calling a special Cabinet Meeting tomorrow to discuss the out- come of this Scrutiny Committee Meeting with regards to 3 Rivers funding advance.

Can this Scrutiny Committee understand why members of the General Public now consider that 3 Rivers is a company in serious FINANCIAL DISTRESS and may even be trading INSOLVENTLY? As clearly stated within the Cabinet report, the specific business cases individually maintain the previously forecast positions for each development, therefore the company is not trading insolvently.

QUESTION 5

Will this Scrutiny Committee be minded to refer the 3 Rivers Funding request to a Special Full Council Meeting and as the MDDC Constitution, paragraph (i) of page 130 permits?

A Motion to consider this specific question was not debated by the Committee and therefore no further answer can be given other than to highlight that the agreed resolution did not refer, or recommend, this matter to be considered by Full Council.

This given the increasing concerns about the MDDC Cabinets apparent lack of proper due diligence in determining the full risk to lending a further substantial amount of funds to 3 Rivers and for the reasons given.

QUESTION 6

Do the majority of this Scrutiny Committee agree that 3 Rivers are causing MDDC significant reputational damage?

Reputational damage that the MDDC and 3 Rivers Shareholder Agreement said should not be allowed to happen.

The committee considered this within its debate. A Motion to consider this specific question was not debated by the Committee and therefore no further answer can be given.

Hannah Kearns, a local resident provided the following questions which were read out by the Chairman:

QUESTION 1

Given key purposes of the Scrutiny Committee are to “ensure the public are consulted where changes are proposed” and to “encourage public involvement by providing accessible information”.

CAN and WILL the Scrutiny Committee do anything to address the serious lack of OPENESS and TRANSPARENCY, including by way of incomplete or evasive answers to PUBLIC QUESTIONS or by way of no answers at all, in respect of MDDC’s business dealings with 3 Rivers?

3 Rivers Developments Ltd is a private company and therefore aspects of their operation is commercially sensitive. As far as possible, discussions of 3RDL are held openly and transparently – hence why the request for increasing the loan agreements were brought to Cabinet for approval.

This lack of transparency appears to have worsened over the last 2 years in line with MDDC’s increasing exposure to very substantial, and potentially bad debt.

QUESTION 2

Is it appropriate that MDDC conceals just about anything of significance from the public in its dealings with 3 Rivers. MDDC appearing to hide behind 3 Rivers being a so-called “Arm’s Length Company”? An assertion that is clearly at odds with the fact that MDDC is both the 100% shareholder of 3 Rivers, and by far and away its major, if not sole, creditor. (Currently £15 million pounds of credit extended and due to rise to £18 million if 3 Rivers latest funding request is fully agreed.)

Commercial information must be treated appropriately. The meeting voted on and agreed to move to Part 2 to protect such information.

See answer to Q1 above

QUESTION 3

Are the Committee Members aware that Croydon Council's Local Housing Company, Brick by Brick Limited, a 3 Rivers equivalent, was one of the main contributors to Croydon Council requiring a Section 114 notice and Government intervention, upon being brought to the verge of bankruptcy with Brick by Brick owing over £200 million to them?

Yes the Council and Cabinet Members are aware, but a vote was not taken at scrutiny to confirm whether individual members of the committee are. It is assumed that this question is about conveying information to the committee.

Brick by Brick incurred gross project overspends and project delays, and operated with a lack of openness and transparency in not declaring the full extent of issues or taking recommendations fully on board.

Croydon Councils' Auditors – Grant Thornton – (the same auditors as retained by MDDC) stated that there was "Collective corporate blindness to both the seriousness of the financial position and the urgency with which actions needed to be taken".

Are the Committee aware that from the perspective of the general public, MDDC seem to be walking the same path?

Yes the Council and Cabinet Members are aware, but a vote was not taken at scrutiny to confirm whether individual members of the committee are. The financial position of the company is considered regularly by Cabinet and is covered by the audit regime which has not suggested any such 'corporate blindness' at MDDC.

QUESTION 4

Are Scrutiny Committee Members aware that several councils have wound up their Local Housing Companies, after various issues and concerns; amongst them Liverpool, Merton (Wimbledon), and East Devon?

Yes the Council and Cabinet Members are aware, but a vote was not taken at scrutiny to confirm whether individual members of the committee are. It is assumed that this question is about conveying information to the committee.