

Full Council
Wednesday 4th September 2024

Barry Warren – local resident.

Mr Chairman

A Performance and Risk report has been circulating before various Committees and PDG's of the Council. At a recent meeting of the Audit Committee a member commented on the low risk score under reference CR9a 3 Rivers – Reputational Damage - but regrettably his comments and the response from the Section 151 Officer are not minuted other than by a meaningless passing reference.

Reply from the Chairman – as has been confirmed on numerous occasions the minutes are a summary of the discussion(s). Whereas, the taped recording includes a full account of the whole meeting.

The Section 151 Officer concluded his response to the member with these words: *“I also do think, this is my own personal opinion, the council does need to move on and refocus its effort on delivering the services we should be proud of and that our residents want, rather than dwelling on something that has happened **and has now been finished.**”*

3 Rivers is being closed down, but how can it be said to be finished when the Council has admitted to a loss of millions of pounds and had millions more moved from reserves, or brought back from previous years, to try and reduce the visible loss figure.

There are still ongoing impairments; unsold properties at Bampton; land in Cullompton bought at an over-inflated price; St. George's Court in Tiverton still requiring considerable additional expenditure to make it ready for HRA use; the selling of land bought to deliver 70 affordable houses in Tiverton, the Park Road Nursery site and more.

Some of these issues will be affecting the Council Tax Payers of Mid Devon for some years yet. It may be convenient to wish it was finished - but it is not.

Also, will this Council's partnership commitment with Zed Pods be a new 3 Rivers?

Reply from the Chairman – it may be worth reflecting that in the past 6 months Zpods have won a number of major construction awards (and were short-listed for 6 others), e.g. Construction News Awards 2024 winner for the category “Client of the Year” (national) and Constructing Excellence SW awards, winner in two categories for St Andrew's House “Climate Action” and “Building Project of the Year up to £5m” (SW regional). In addition the company has also achieved Construction News Specialist Awards winner for St Andrew's House for the category “Project of the Year by a Specialist Contractor (up to £2m)” (national) and been awarded the Kings Award for Enterprise, announced by the Construction Industry Council.

Many questions are being asked about costs and construction. Detailed responses – not answers – have been put forward to public questions. One recent response, given by the relevant portfolio holder, was so very long and detailed that the words could only have come direct from Zed Pods. It is a pity that some of that information is different from what is being put forward in the planning applications that Zed Pods are making on behalf of MDDC.

Questions are also being asked about project delivery times being extended and costs increased.

Reply from the Chairman – the Council is aware of a number of questions that have been asked over a number of months, which all appear to emanate from a very restricted source. All of the questions that have been submitted have been answered fully and promptly to my knowledge.

Is 'due diligence and value for money' really being exercised on behalf of the Council Tax Payers?

Reply from the Chairman – I'm sure our officers and auditors, both internal and external, are undertaking appropriate due diligence to ensure that value for money is achieved.

Will the Scrutiny and Audit Committees take a good and forensic look at the public money spent on these projects?

Reply from the Chairman - The Chairman and representatives of these two Committees were present at this meeting and will of course structure their forward plans as they see fit.

Paul Elstone – Questions.

Question 1

Despite the land at Knowle Lane Cullompton having been valued at only £1.665 million, the Council, Cabinet and Committees have been told that the Council paid £3.662 million for this land.

But an examination of the Council 2023/24 Accounts has revealed that on the 2nd February 2024 the Council paid 3 Rivers £4.394 million – a payment clearly shown as for the purchase of Knowle Lane. The difference between the £4.394 million actually paid to 3 Rivers for Knowle Lane and the £3.662 million that was said to have been paid is £732,000.

Please can this very substantial discrepancy of £732,000 be fully explained ?

Response from the Chairman – it is again unfortunate that you choose against tabling your questions in advance of the meeting or contact the relevant Cabinet Member or officer so you could receive an answer to your question(s). Especially, as you have asked a very straight forward question, but described it as a discrepancy. The £732,000 is the VAT on the transaction which is fully recoverable by the Council from the HMRC and therefore does not show as a cost in our accounts.

Question 2

When the very low Reputational Risk ranking for 3 Rivers was challenged by a member of the Audit Committee on 20 August, the S151 Officer said that he considered the risk ranking was correct and said he thought it was time to move on and not dwell on the past.

In his response, the S151 Officer admitted that 3 Rivers had been a mistake. Also saying that the problems at 3 Rivers were down to poor trading conditions in 2019.

Response from the Chairman – after returning to the recording from this meeting it is disappointing to reflect on how you have chosen to quote from our S151 Officer’s response. He gave significant context to his detailed response which included reference to “after significant years of hindsight it could be viewed as a bad decision”. In his response he then went on to reference the

deterioration in market conditions between 2019 and 2021. You again appear to have been rather selective in how you have chosen to quote from him.

But trading conditions in 2019 were good. The Bank of England interest rate was at 0.75 percent and falling. Building material prices had been flat for an extended time. Property prices were increasing. It was not the trading conditions that was the problem in 2019, this is just an attempt at an excuse.

The S151 Officer was the 3 Rivers Finance Director in 2019 and knew that 3 Rivers was already in financial distress at that time.

In November 2019, the Council had to make an impairment of £790,000 for 3 Rivers bad debts on the Working Capital and St George's Court loans.

The S151 Officer had advised the Cabinet, in 2017, that they should set up the 3 Rivers Company and let them build St George's because it would make a profit of £350,000 plus. But by November 2019 the S151 Officer fundamentally changed position and told the new Cabinet, in respect of St Georges Court, that, and I quote *'There was obviously no profit in it'*.

Response from the Chairman – I am surprised as to why you are drawing the Council's attention to a multi-million pound development changing in cost projection by circa £350k in a 2.5 year period. It is his formal role to provide the Council with financial updates/forecasts, as and when circumstances change.

Will all members accept that until all relevant information is made available to the public, including Audit Reports and Business Cases and which have previously been suppressed and based on 3 Rivers supposed business damage and confidentiality, then the Reputational Risk to this Council from 3 Rivers will persist and may even escalate?

Response from the Chairman – all information relating to 3Rivers has been made available, within the legal boundaries of commercial sensitivities and I note your further and ongoing comments regarding reputational risk. It may even be pertinent at this point to reflect on what or indeed who is potentially causing this reputational risk you refer to.

It is worth noting that the reputational risk as quoted, referred to the risk that council debate would impact negatively on the company. The risk clearly states *'This risk is expressed as damage to the company (and hence the council as shareholder)'*. At the time this was added to the risk register, the tone and

tenor of council debate was often fraught, argumentative, and disrespectful. The risk mitigations as identified highlight that challenging poor behaviour in the council chamber, and elected members managing debate in a respectful way, were key aspects of addressing the risk. Since the council has now made clear and unanimous decisions on this issue, and the company has been wound down, there is little risk of further damage to the company (or council as shareholder) at this point. The revised risk rating reflects this.

This administration has taken unanimous decisions to address the challenges left to us and to put the council back on the path of financial responsibility and robustness. The council does not consider any ongoing public questions on this topic a reputational risk in the way that seems to be implied by the questioners. Public questions are a valuable part of our openness, transparency, and commitment to good governance.

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