

Cherwell District Council
Budget Planning Committee

6 November 2018

Response to the Value for Money Judgement in 2017/18 accounts
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Report of Interim Executive Director – Finance and Governance

This report is public

Purpose of report

Following the publication of the final accounts for 2017/18 for Cherwell District Council in September 2018, our accounts were not qualified, except for Value for Money. In response to the issues raised in that judgement, this report details the actions that we have taken to address any concerns in that judgement and highlights our continued strengthening of our financial management framework.

The issues highlighted related to the acquisition of one company, which included the acquisition of one site within Banbury known as “Crown House” and this report evidences the improvements that happened both within 2017/18 and into 2018/19 around our acquisition strategy and policy. Further actions are also detailed about other improvements that we wish to make.

As part of the Value for Money audit for 2017/18 other similar transactions were examined, including the acquisition of Castle Quay 1 and 2 and no issues were raised.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the actions taken to date in relation to address any concerns within the value for money judgement in our 2017/18 accounts in relation to the acquisition of assets.

2.0 Background and report details

- 2.1 Over recent years, Cherwell District Council has been undertaking ambitious and proactive actions to positively invest in our local area and local community, including the acquisition of key land and buildings within our area for both financial and social reasons.
- 2.2 When acquiring assets, the Council has a duty to ensure that suitable due diligence is undertaken and that decisions about the fair price to acquire assets are taken

based upon sound financial and legal advice in an open and transparent way and must be mindful of our fiduciary responsibilities to all local tax payers in relation to Value for Money.

- 2.3 Transactions relating to the acquisition of assets can be complex and those that make the ultimate decision whether to purchase or not need to be able to understand not just the short term implications of their decision, but the longer term implications for the Council.
- 2.4 External Audit have a duty to consider any such transactions when reviewing the accounts at the end of the financial year in which they have happened, and they consider the way in which risks, issues and our response to our best value duties have been considered and demonstrated.
- 2.5 The evidence around one transaction in 2017/18 in relation to the acquisition of Crown House Banbury Ltd. identified some weaknesses in the acquisition process but only for that particular transaction. Despite other acquisitions taking place in 2017/18, no other weaknesses in relation to Value for money were identified.
- 2.6 Crown House within Banbury was a large derelict building (6.8 acres comprising 33,000 sq ft vacant part 4 and part 3 storey 1970's former office building) and considered to have a negative impact on the future potential of Banbury.
- 2.7 The council was able to evidence that the Crown House site was one that they had spent several years trying to work with others to improve; it had been a derelict site that blighted Banbury for a significant period of time.
- 2.8 The Council had undertaken many other actions including working with the previous owners, an attempt at CPO until finally the opportunity to acquire the company that owned the site itself and to take control of managing the situation arose in 2017. All of the evidence points to a strong awareness at both officer and Member level of the situation and a desire to find a solution to regenerate the site for the benefit of local people and businesses.
- 2.9 Following negotiations with the owners during that year, in July 2017 full Council approved a capital budget to acquire the site. The decision at the time appeared to be taken as a fully commercial one, although in reality this was not a purely commercial decision in terms of securing the site, there was also a social value that was not fully evidenced in the final papers presented.
- 2.10 Given strong evidence of the previous attempts to improve the site either through discussions with owners or through the CPO of the site, it could be understood that the Council knew that there was a social value element to the transaction. However, the evidence of this being considered in the final decision that was made cannot be fully demonstrated.
- 2.11 On this basis, External Audit had to issue an except for Value for Money conclusion. The transaction itself is still legally valid; it is just that the Council was not able to demonstrate that it had fully evidenced the value for money of the acquisition.
- 2.12 The issues around this transaction had been identified prior to the completion of the external audit by officers currently working at Cherwell and significant review was

undertaken to determine the exact nature of the weaknesses prior to discussion with them.

- 2.13 During the audit process, the current Chief Finance Officer (also known as the Section 151 Officer) identified these weaknesses and addressed them in a report to the auditors explaining what her own review had found, the improvements that had already taken place and other steps that would address the issues that arose.
- 2.14 As part of that review a commitment to report to the Budget Planning committee about the issues that had been highlighted was made, at the earliest opportunity following the completion of the external audit in September 2018.
- 2.15 Issues to highlight for this particular transaction are as follows:
- This was the acquisition of a company that held an asset, but some of the due diligence undertaken seemed to confuse these two issues when assessing and demonstrating a fair price to pay
 - The transaction was treated as a fully commercial decision when it was clear that there was an element of social value that needed to be considered in the purchase price.
 - The breakdown of how the purchase was being valued is not clearly demonstrated in the reports to Executive and Full council and therefore the rationale for the purchase price was not fully explained within the committee reports
 - There was not a clear demonstration of market testing the acquisition and the assumptions or modelling any risk scenarios
 - The likely cost of borrowing was not explicitly laid out in the report although having reviewed the budget at the time, there was enough headroom available to undertake the transaction in the treasury management budget at the time
 - Given this was an exempt report, all of these issues may have been discussed at the time but with no supporting evidence we could not demonstrate fully that this had all been considered.
- 2.16 Since reviewing this transaction as part of closing down our accounts, we can demonstrate the following actions have been undertaken:
- We have sought further professional advice to support the review of Crown House including legal advice on the validity of the original transaction which concluded it still remained valid.
 - Reviewed our other acquisitions since and these were found to be robust.
 - Improvements in governance had already been brought in, including the Investment strategy working group, a new programme management framework, increased levels of proactive and preliminary due diligence on any potential acquisitions and improved financial implication information.
 - We have also looked at strengthening our policies for decision making over acquisitions, the first of these was the new Banbury Strategic Investment vision agreed in September 2018.
 - We are also reviewing the social value and undertaking a best value assessment of the transaction retrospectively.
- 2.17 In addition to this we recognise that the likelihood that officers and members may be asked to consider decisions around further complex transactions such as these

in the future is increasing. We want to ensure that they can feel confident in undertaking that role. We are arranging external training to cover strategic decision making in a commercial and social value environment and are in discussion with leading experts to arrange these sessions.

- 2.18 We will also learn from our own best practice in subsequent transactions as well as consider other best practice and case studies as part of this training and development.

3 Conclusion and Reasons for Recommendations

- 3.1 The issues that were highlighted and raised in terms of Value for money are serious ones, but related only to the acquisition of Crown House Banbury Ltd.
- 3.2 Having reviewed the transaction it is clear that the right decision, with the right intentions was made but there were some flaws in the way the process was undertaken.
- 3.3 We took a proactive stance with our external auditors and this was recognised by them in their value for money conclusion, as was the recognition that this related to just the one transaction.
- 3.4 In the external auditors "ISA260" (their final audit opinion) they also reflect on the improvements in financial management that we have already made and continue to make.

4 Alternative Options and Reasons for Rejection

- 4.1 The report is for noting so there are no alternative options required.

5.0 Implications

Financial and Resource Implications

- 5.1 There are no financial implications directly arising from this report.

Comments checked by: Kelly Watson, Assistant Director Finance and Procurement
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Legal Implications

- 5.2 The Monitoring Officer has worked closely with the Section 151 Officer on this matter and in obtaining legal advice. The Monitoring Officer fully endorses the measures taken by the Section 151 officer with regard to this matter and the contents of this report.

Comments checked by: James Doble, Assistant Director of Law and Governance,
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Risk Implications

- 5.3 Ensuring that we address the areas of weakness that were highlighted in the review will reduce our exposure to risks in any future transactions.

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6.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Lead Councillor

Cllr Tony Ilott
Lead Member for Finance and Governance

Document Information

Appendix No	Title
None	N/A
Background Papers	
None	
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