

Spelthorne's thorny property problems spelt out

Following the report on Woking's woes we have Emily Coady-Stemp from LDRS report on another sister Surrey borough's woes over property investments:

Spelthorne's former leader says "hand on heart" he still believes the borough council's commercial property investments were "utterly legal". The councillor said the authority had taken legal advice on the decision to purchase the buildings but raised concerns about other councils with high borrowing costs.

Image: Spelthorne Borough Council audit committee on March 23, 2023. Credit: Emily Coady-Stemp

Councillor Ian Harvey (United Spelthorne Group, Sunbury East), who was leader of Spelthorne Borough Council at the time three commercial properties were bought outside of the borough in 2017/18, was responding to a public interest report carried out by its auditors. He told a meeting of the borough council's audit committee on Thursday (March 23) his first question at the time the possibility of buying properties came up was: "Is it legal?"

He said the advice given at the time by the council's KC was that it was legal, and that the decision had "repeatedly been determined to be legal subsequently".

The report, publicly released in November, claimed the council had "acted unlawfully" in its decision to buy properties outside of the borough, and set out five recommendations for the authority.

At a December meeting of the council, councillors agreed the recommendations set out in the KPMG report, and Thursday's meeting was an update on the action plan to come about from that.

The current council leader, Cllr John Boughtflower (Conservative, Ashford East) said in December the council "should not have any difficulties" accepting the recommendations, because of changes to processes at the council and issues that had been addressed since the purchases.

Cllr Harvey asked auditors at Thursday's meeting, who were presenting their report into the 2017/18 accounts, if they had assessed the council's risks "compared to some other spectacularly investing local authorities for example, Slough, Croydon, Thurrock". He also asked about comparisons to Woking Borough Council, where the current administration has warned an effective bankruptcy may be declared, saying they had "borrowed more than we have without any surety of repayment".

Later in the meeting Cllr Harvey said: "I can say hand on heart that we were assured, and I still believe, it is utterly legal. And if what we did was illegal then what a lot of other councils have done, and spectacularly failed, at was far, far more illegal." He claimed the difference in legal opinions was because KPMG had "relied on a much more junior barrister within the same chambers who came up with a dissenting view".

Cllr Lawrence Nichols (Liberal Democrat, Halliford and Sunbury West) said though the advice was taken from a "very well qualified QC", it amounted to 19 words of legal advice for more than £200million of expenditure in 2017/18. He also questioned the diversity of the council's property portfolio and the advice sought from how to manage commercial properties. He told the meeting: "I do think we out to be more realistic about diversification. We are in the office business, whether it's an engineering company or a dental practice, that's not the issue. It's the office market we're in, so that's our diversification risk."

In response to an expected £60m of rental income dropping to £46m for next year, which Cllr Nichols said was a "massive change of direction", the council's chief accountant Paul Taylor said £7m rent guarantee income had been released and would be going into the council's revenue budget.

The meeting heard that a new group head of assets had recently started at the council and that a "fully worked up action plan" would come to the committee's next meeting in July. Spelthorne's chief executive, Daniel Mouawad, said the nearly half a decade turnaround in the audit report for 2017/18, the last stage of which was the public interest report, was "by any measure" a "remarkably poor turnaround". But he added that nearly a year's delay could be "directly attributed to the actions of one individual Spelthorne councillor" which was currently being investigated under the members code of conduct.

When asking a question on this individual, Cllr Harvey was cut off by the chair, his wife Cllr Helen Harvey (United Spelthorne Group, Sunbury East), though officers did confirm they would revert with a response on the cost of the delay caused by the councillor concerned.



KPMG representatives confirmed an “adverse conclusion” would be issued in relation to the “value for money arrangements” for the 2017/18 accounts, the same as in the 2016/17 accounts where recommendations and weaknesses raised were “still in place in the 2017/18 period”.

The meeting also heard that a review into the council’s borrowing carried out by the Department for Levelling Up, Housing and Communities should be coming to an end this week

In response to a public question on the review, the chair said the council was not “privy to the terms of reference or have any expectations to receive the final report within any given period”.

It was hoped this report would also come to the next committee meeting in July, though Terry Collier, the council’s deputy chief executive, said it had been hoped there may be a draft report available by Thursday’s meeting.