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Phoenix House  
Phoenix Lane  
Tiverton  
Devon  
EX16 6PP  
[www.middevon.gov.uk](http://www.middevon.gov.uk)

Contact: **S Gabriel**  
Telephone  
:  
Email: [sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

**Date 24 February 2016**

Dear Member

**Council – 24 February 2016**

I am now able to enclose, for consideration at the next meeting of the **Council**, the following reports that were unavailable when the agenda was printed.

10 **Scrutiny Committee Report - 25 January 2016** *(Pages 3 - 10)*

Yours sincerely

Sally Gabriel  
Member Services Manager

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **SCRUTINY COMMITTEE** held on 22 February 2016 at 2.00 pm

### **Present**

#### **Councillors**

F J Rosamond (Chairman)  
Mrs H Bainbridge, Mrs J B Binks,  
Mrs C P Daw, R M Deed, Mrs G Doe,  
R Evans, T G Hughes, Mrs J Roach,  
T W Snow and N A Way

### **Apologies**

#### **Councillor(s)**

Mrs A R Berry

### **Also Present**

#### **Councillor(s)**

Mrs F J Colthorpe, R J Dolley, C J Eginton, J L Smith and  
Mrs M E Squires

### **Also Present**

#### **Officer(s):**

Stephen Walford (Chief Executive), Jill May (Head of HR and Development), Nick Sanderson (Head of Housing and Property Services), Simon Trafford (Area Planning Officer), Jo Cavill (Enforcement Officer) and Julia Stuckey (Member Services Officer)

## 120 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr Mrs R Berry who was substituted by Cllr R Evans.

## 121 **PUBLIC QUESTION TIME**

Referring to item 10 on the agenda (Planning Enforcement) Councillor Ursell of Willand Parish Council stated that it is appreciated that Members are recommended to take a particular course of action within the officer's report. This appears a minimal option. Will Members please recognise that there is a genuine concern within town and parish councils as to the real and perceived issues that planning enforcement in Mid Devon is not working effectively to retain the confidence of the public and elected councillors in the planning system? Do Members really believe that a 'benchmarking exercise' alone will restore or create the necessary confidence in the system?

Would Members consider recommending a review of the whole management system within the department by someone from outside of the department or even outside of MDDC? This is suggested as MDDC have dedicated Planning Enforcement officers yet when one or more are away enforcement enquiries in their area seem to stop until they are available again. There is experience of this in more than one instance. Could consideration be given to Planning Officers dealing with all aspects and then they may have a better overall picture and allow for more flexible working and taking responsibility for enforcing the conditions they have recommended?

Councillor Warren, of Willand Parish Council, referring to item 10 on the agenda asked would Members please consider the causes of some of the enforcement issues which are brought about by the planning process itself? Officers recommend approval of certain applications subject to conditions and one gets the feeling that these words are used to achieve approval from planning committee which otherwise might not be forthcoming. Some of these suggested conditions are not clearly specific; in some cases they are unachievable and some are certainly unenforceable therefore why impose them in the first place? Locally these conditions are seen to be broken and when representation is made to officers one is met with reasons as to why nothing can be done and phrases such as expedient, proportionate, negotiation and similar are used to excuse inactivity. A developer can breach conditions and stand a good chance of doing what he/she wanted as opposed to what was approved by planning committee and end up achieving what they wanted by way of retrospective approval or officers deciding to take no notice at all. Is this the most appropriate way to retain credibility in the process? Is it wise for officers alone to decide to take no action on breaches of conditions set by the planning committee? Is it right that everything appears to be done to excuse or permit breaches by developers/landowners yet little or no consideration appears to be given to views of complainants? Is it because they cannot appeal and cannot seek compensation as a person in breach may be able to if he/she does not like the outcome.

Councillor Grantham of Willand Parish Council, referring to items 10 and 11 on the agenda stated that Members had been given a report and recommendation by the Head of Planning and Regeneration. Under item 11 certain selected items would be discussed. Would it not be helpful to Members to have a representative from the interested council/community present who could contribute having a full and detailed understanding of the local concerns of the case? Whilst understanding the need for a certain amount of confidentiality, certainly the number of cases at Willand and surrounding area, basic details are in the public domain having been discussed at Council meetings open to the public. When detail has been questioned or documents asked for by the Parish Council 'confidentiality' is quoted by officers. Would the system not have a greater credibility if there was more openness in non-financial or non-sensitive information in order that people could see that something was done? Could not this committee publicly identify the sites being discussed and/or the alleged breaches?

The Chairman stated that these issues would be addressed during debate on the item.

## 122 **MEMBER FORUM**

Councillor Mrs J Roach raised a matter regarding planning matters and the Chairman agreed that this could be discussed at this item.

Councillor Roach informed the Committee that Planning Policy Procedures had been outstanding for a considerable time and that in the past the previous Chief Executive had promised that the report would be ready for spring 2014. She stated that Members had raised issues regarding this but that some of those Members were no longer with the Council. Cllr Roach explained that a policy and planning procedures working group had been looking at these procedures for 5 years and that members of the public had also expressed concerns. The Procedures were still outstanding and the Councillor asked when they would be completed.

The Area Planning Officer confirmed that the Planning Policy Procedures would be presented to the Planning Committee at their meeting in March and would be reviewed by the Scrutiny Committee following this.

It was **AGREED** that the Planning Policy Procedures would be reviewed by this Committee at its meeting following the Planning Committee in March.

Councillor R Evans informed the Committee that members of the public had informed him that they had been advised of a change to the authority's recycling policy. He had been told that there would no longer be a collection of cardboard that did not fit within the containers provided. Cllr Mrs G Doe confirmed that she had also been given this information from the Head of Finance.

It was **AGREED** that a report regarding the implementation of the waste and recycling policy be presented to the next meeting of the Committee.

### 123 **MINUTES OF THE PREVIOUS MEETING**

Subject to a change to recommendation (d) of Minute 116 to read "That this Council examine the structure in the context of the Corporate Plan and the financial situation of the Council" the minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

### 124 **DECISIONS OF THE CABINET**

The Committee **NOTED** that none of the decisions made by the Cabinet at its last meeting had been called in.

### 125 **MEETING MANAGEMENT**

The Chairman indicated that he intended to take item 12 on the agenda before Chairman's Announcements.

### 126 **ST ANDREW STREET DEVELOPMENT**

At the request of the Committee the Head of Housing and Property Services provided an update with regard to the St Andrew Street Development. The Officer explained that McCarthy and Stone had withdrawn their interest in purchasing the site at the rear of the Town Hall which had planning permission for 45 retirement homes.

Officers were currently reviewing alternative arrangements to develop the site, which included meeting with two potential developers and also looking at the possibility of the authority developing the site itself. The Officer would report back on this at a later date.

### 127 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reminded the Committee that there was a Special Meeting scheduled for 11 March 2016 at 4.00pm at which Mel Stride MP and Mr John Finn of the CCG would be in attendance. He reminded the Committee that questions should be forwarded to the clerk in advance of the meeting date.

The Chairman also drew the Committee's attention a response that had been received from Brandon Lewis MP in reply to a letter sent to him from the Chairman regarding affordable homes. It was **AGREED** that the letter had not addressed the issue of low wages making it impossible to obtain a mortgage, even for an affordable home in the area, and how those on low incomes would be housed.

It was **AGREED** that the Chairman write to Brandon Lewis MP again and that the matter be raised with Mel Stride MP on his visit. A previous response that had been received from Neil Parish MP, regarding housing, to be re-circulated to the Committee.

The Chairman also drew attention to a response from the Environment Agency regarding a pollution incident. It was **AGREED** that no further action was required.

## 128 **MEETING MANAGEMENT**

The Chairman indicated that due to the number of members of the public in attendance he intended to take items 10 and 11 on the agenda before item 7.

## 129 **PLANNING ENFORCEMENT (00.34.22)**

At a meeting of the Committee held on 2 November 2015 it had been **AGREED** that the Head of Planning and Regeneration report to the Committee regarding the Enforcement Service, delays in enforcement taking place and plans to rectify this.

The Committee had before it a report \* from the Head of Planning and Regeneration regarding Planning Enforcement.

The Area Planning Officer introduced the report which set out the background to how the service operated. He explained what a breach of a planning control was and the actions that local authorities were advised to take. He explained that just because there was a breach of a planning condition this did not always mean that there was justification for action to be taken. He also explained timescales for enforcement action and informed the Committee that the guidelines used the word 'can' rather than must, meaning that there was no concrete procedure in place for officers to follow.

Discussion took place regarding:

- The amount of time it took for Members to get a response from Officers when they made an enquiry regarding an enforcement issue;
- Cases where no action had been taken;
- Whether or not enforcement should always take place when conditions set out in planning permission were not met;
- Over 2500 planning permissions were granted each year with 2.5 Enforcement Officers in post;

- A general issue of Members being kept informed of action that was being taken;
- Various ways in which other authorities operated;
- Better communication needed between the Ward Member and the Planning Enforcement Officer;
- The need to show that this authority did not have a tolerance for acceptance of breaches of conditions;
- If staffing levels within the service were appropriate for the workload.

It was **RESOLVED** that the Chief Executive be asked to look into Members concerns that had been discussed today and bring a report back within two months to set out how he intended to deal with those concerns.

(Proposed by Cllr Mrs J Roach and seconded by Cllr T W Snow)

It was further **RESOLVED** that a benchmarking exercise on planning enforcement be undertaken with other nearby councils to include levels of enforcement activity and local performance indicators.

(Proposed by the Chairman)

Vote: 6 for, 5 against (Chairman's casting vote)

Note: Report \* previously circulated and attached to minutes.

### 130 **PLANNING ENFORCEMENT CASE UPDATES (01.10.48)**

At a meeting of the Committee held on 2 November 2015 it was **AGREED** that the Head of Planning and Regeneration report to the Committee regarding the Enforcement Service, delays in enforcement taking place and plans to rectify this.

The Committee had before it a report \* from the Head of Planning and Regeneration regarding specific cases that had been reported.

The Chairman reminded the Committee that should they wish to discuss any detail within the report the item would need to go into Part II as the report contained information of a confidential nature.

Discussion took place regarding;

- Whether or not it was appropriate for the meeting to go into Part II;
- The lack of information within the report regarding contact from Ward members;
- The lack of a timeline within the reports stating when and what action or contact had taken place;

- The fact that full and thorough reports would be produced if enforcement action was to be taken;
- Information that could be in the public domain and information that was confidential.

It was **RESOLVED** that the Chief Executive be given an opportunity to look at the Planning Service and to leave him to resolve what was clearly a problem in this Council.

(Proposed by Cllr T G Hughes and seconded by Cllr R M Deed)

Note:- Report previously circulated and attached to the Minutes.

### 131 **STAFF SICKNESS (01.33.32)**

The Head of Human Resources and Development explained that a Member Briefing held in the latter part of last year regarding staff sickness had been well received by Members and it had been requested that the information be given to the Scrutiny Committee.

She explained that at 31<sup>st</sup> December 2014 staff sickness had stood at 7.17 days per employee but by 31<sup>st</sup> December 2015 this had fallen to 5.7 days per employee. She explained that there were a number of reasons that affected sickness levels and these included legislation and the fact that staff were working for longer and older workers tended to have more issues healthwise.

The Human Resources Officer explained the responsibilities of the employee, the Manager and Human Resources in managing sickness and she explained the triggers that were set in place. She explained that long term sickness was anything over 15 days in one absence and that in many ways this was easier to manage than short term sickness.

The Human Resources Officer then explained short term sickness and the processes and stages of dealing with this, which may culminate in a panel to establish suitability for employment. She explained that consideration needed to be given to what may be causing the sickness absences, such as lifestyle.

The Head of Human Resources and Development outlined a case where an employer had not been seen to deal with sickness appropriately and had ended up paying compensation of several thousands of pounds to the employee. She explained that Human Resources worked with staff and managers to protect the authority from cases such as this.

Discussion took place regarding;

- The trigger points for managers to take action;
- The payment of sick pay to staff;
- Use of other monitoring systems such as the Bradford Factor;



- The fact that staff had a probationary period and would not be kept on if sickness was a clear issue.

The Chairman commended the officers for improvements that had been seen in sickness statistics.

### 132 **STAFF SURVEY UPDATE (01.57.27)**

The Committee had before it and **NOTED** a report \* from the Head of Human Resources and Development providing an update regarding the progress of the Staff Survey Action Plan, giving Members information relating to action taken so far.

Discussion took place regarding;

- Whether, when a staff member had discussed a matter with their line manager with no resolution, they should be expected to go above their line manager to the next manager, or whether it would be more appropriate for them to go to Human Resources at that stage;
- The appraisal scheme and the fact that it would be reviewed;
- Managers should be trained to deal with matters sensitively;
- The importance of developing the action plan following the staff survey so that staff could see that their views were being acknowledged.

Note:- Report \* previously circulated and attached to Minutes.

### 133 **LEGAL SERVICES SIX MONTHLY UPDATE (02.07.20)**

The Committee had before it and **NOTED** a six monthly update \* from the Legal Services Manager. The Officer highlighted the heavy workload of the service and explained that there was no sign that this would be reducing.

The Officer outlined the following areas of work:

- Town Hall Site, the Legal team were still working to ensure that the legal interests in the site were agreed, and had undertaken work to purchase garages within the site;
- The Premier Inn and legal work regarding ownership of part of the car park and the surrounding land;
- Purchase of land on the Eastern Urban Extension for the development of affordable homes;
- Digital Transformation and the need to scan documents that were currently held in paper format;
- The planned appointment of an administrative assistant to free up the Trainee Legal officers to help with their workload;

- A High Court case which had now been settled.

Discussion took place regarding staff workload, ongoing issues regarding the location of the office printer and the use of barristers.

It was **AGREED** that it was no longer necessary for the Legal Services Manager to report to the Committee every six months.

#### 134 LEISURE CENTRE CAR PARKS (02.26.00)

At a meeting of the Scrutiny Working Group 'Reviewing the Costs of Efficiency Measures' Members had identified leisure centre car parks as a potential source of income to the authority.

The Working Group had **RECOMMENDED** that the Scrutiny Committee investigate the potential to charge for car parking at leisure centres.

The Chairman of the Working Group explained that the Group had identified the car parks at the three leisure centres as untapped potential income. The Group had discussed the fact that people that were not using the leisure facilities were using the car parks.

Discussion took place regarding;

- Whether or not leisure service users would be prepared to pay for parking;
- Whether the income generated would cover the cost of investment in ticket machines and software;
- If usage of the centres would decrease and therefore have a negative impact on income.

It was **AGREED** that Officers would ensure that car parks were managed efficiently as part of the Leisure Services review.

#### 135 IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS

Digitalisation for Members  
Safeguarding  
RIPA Update  
Policy for the Removal of Gypsies and Travellers from Land  
Council Website  
Communications Working Group - 6 Monthly Review  
Performance and Risk  
Cabinet Member for Finance  
Q & A with the CE  
Recycling Update

(The meeting ended at 4.50 pm)

**CHAIRMAN**