

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 17 July 2023 at 5.30 pm

Present Councillors

R Gilmour, D Broom, Mrs F J Colthorpe, A Cuddy,
G Czapiewski, M Farrell, B Holdman, L G J Kennedy, R Roberts,
S Robinson, G Westcott and N Woollatt

Also Present Councillors

J Lock, D Wulff

Present Officers:

Stephen Walford (Chief Executive), Richard Marsh (Director of Place), Maria De Leburne (District Solicitor and Monitoring Officer), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Matthew Page (Corporate Manager for People, Governance and Waste), Andrew Seaman (Member Services Manager) and David Parker (Member Services & Policy Research Officer)

10 APOLOGIES AND SUBSTITUTE MEMBERS (03:34)

No apologies were received.

Cllrs , E Buczkowski, J Buczkowski, A Glover, S Keable, L Taylor attended the meeting virtually.

11 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (03:44)

Members were reminded of the need to make declarations where appropriate.

12 PUBLIC QUESTION TIME (04:00)

Paul Elstone's questions related to Item 8 on the agenda; on the subject of Review Recommendations of the Planning Enforcement Working Group.

Question 1:

The Summary Report indicates there were 3 levels of priority in terms of Caseload. High Medium and Low. What were the selection criteria for determining in which priority an enforcement issue was allocated to?

In reply to Mr Elstone's questions, the Director of Place answered:

Answer:

The priority of a case was determined by the enforcement officers using their professional knowledge, expertise and judgement and in accordance with principles as set out within the current Local Enforcement Plan.

The list of enforcement matters were also regularly reviewed (monthly) with the Development Management Manager and Corporate Manager. The Director of Place reviewed high priority cases on a monthly basis.

The new enforcement policy – currently in draft and being worked on by officers prior to presentation to Cabinet – would consider a revised approach to how cases are prioritised and escalated, although the focus would continue to be on high priority cases.

It should be noted that a high degree of officer discretion would always be necessary in relation to prioritisation given that each case is unique and would need to be considered based on its own facts.

Question 2

Was there a MDDC Policy or Procedure Document that clearly outlined the priority selection process?

Answer:

The Local Enforcement Plan set out the priority level of cases in a broad sense.

Question 3

Was this document available for public review?

Answer:

Yes – the current plan was on the public website and was easy to find.

Question 4

Of the High Priority enforcement issues, which were estimated to be currently around 22, how many had been outstanding for over 6 months?

Answer:

There were 12 cases.

Question 5

What was the longest outstanding High Priority enforcement case? And why had it taken so long to close down?

Answer:

A case from 2020 relating to a Listed Building and UPVC windows. The reason the case had been outstanding for so long was because they were awaiting information from the owner.

Question 6

Of the 517 cases that had been closed how many of these were handled by.

- Non Material Amendments.
- Certificates of Lawfulness.
- Planning Variation Agreements of any sort.

Answer:

That information was not to hand – If Mr Elstone was keen to have that information then the Department would need to consider the request separately and they would need to consider how long it would take to deal with that request.

Question 7.

Of the Preceding categories in question 6, how many had been closed down on a delegated authority i.e. by MDDC Officers and without any referral back to the MDDC Planning Committee?

Answer:

Planning enforcement matters are not referred back to the Planning Committee. Under the previous Council, the Cabinet Member for Continuous Improvement had oversight of planning enforcement matters and was kept involved regarding the closure of cases and matters relating to high-priority cases.

Despite the fact that the constitution affords delegated authority to officers to deal with matters relating to planning enforcement, the intention was to keep the Cabinet Member for Planning and Economic Regeneration apprised of key performance measures and key cases in relation to planning enforcement.

Question 8.

Was it MDDC's policy to refer any enforcement decision back to the MDDC Planning Committee where the application came before the Planning Committee in the first instance? This was where the Planning Committee itself set or agreed the conditions.

Answer:

No, it was not MDDC policy. There were certain scenarios where enforcement action needed a decision from the planning committee such as urgent works notices.

Question 9.

If the answer to the previous question was no, did that not defeat the integrity of the Planning Committee Process? That it further lead to a lack of public trust and the will of their elected members potentially being fundamentally ignored?

Answer:

No, it did not. The question suggests that a breach of a planning condition would always be allowed to continue when in fact officers will seek to address planning breaches in order to ensure compliance with the planning conditions – noting that officer necessarily have to focus on high priority cases first.

On occasion, breaches could sometimes involve a planning application to regularise activity – which would then be a public process.

Where compliance did not occur, and no application to seek to regularise was put forward, appropriate enforcement action would follow if it was deemed to be proportionate and expedient in the eyes of the LPA. As stated previously; high risk cases would always necessarily be prioritised.

13 MINUTES OF THE PREVIOUS MEETING (07:02)

The minutes of the meeting held on Monday 19 June 2023 were approved as a correct record and **SIGNED** by the Chairman.

14 DECISIONS OF THE CABINET (10:28)

The Committee **NOTED** that none of the decisions made by the Cabinet on 4 July 2023 had been called in.

15 CHAIRMAN'S ANNOUNCEMENTS (10:35)

The Chairman and others had attended a meeting of the Scrutiny Network for the South West. The Chairman had therefore requested reports on Highways and on Deprivation from the clerk to that committee.

16 MOTION 564 - INCLUSIVITY AND COMMUNITY ENGAGEMENT (11.32)

The Committee **NOTED**, a verbal report on Motion 564 – Inclusivity and Community Engagement from the Corporate Manager for People, Governance and Waste.

The officer explained that two previous councillors, Elizabeth Lloyd and Jo Norton, led a project which looked to enhance the diversity of candidates who would apply and put themselves forward to be prospective councillors at Mid Devon District Council. There were different events organised about how to potentially broaden a pool of applications, and this led to a number of recommendations which were approved by full council. These included:

- That the Council considered ways to better promote the role of a Councillor
- That all chairs of Committees and PDGS be required to attend formal training
- That a Councillor be identified to be the Equalities and Accessibility champion
- That the Council developed a mentoring scheme for new members of the Council
- That the Council supported and facilitated the building of councillor networks in particular between women councillors and councillors with families or caring responsibilities, to grow peer to peer support
- That the Council developed a (password protected) private members area on the Council website, in order to create a bank of shared training materials and documents for reference and ongoing learning
- That the Council ensured all officer roles were offered flexibly (unless there was a business need) and gave consideration to the option and promotion of job shares for officers
- That further research was carried out into member experience of equality in the Council

There had been good progress made against these objectives including:

- There was an open evening at the Council and promotional videos had been released prior to the 2023 election to encourage more candidates from different areas and backgrounds to put themselves forward.
- Mandatory training for Chairs and Vice Chairs formed part of Induction training.
- The Councillor Champion was renamed as the Member Champion for Equality, Diversity and Inclusion. A role description had been drawn up with the LGA and it was recommended that this became a formal Cabinet responsibility.
- In July 2023 the Cabinet determined that Cllr Jane Lock would become the Council's first Member Champion for Equalities, Diversity and Inclusion.
- Initial research had been carried out with the LGA to look into building peer networks and these existed within some political parties but further work was required to determine what best suits the Council.

- A members' area now existed for training, presentations and recordings to be stored.
- A survey was being considered to better understand member experience of equality in the Council (discussions with the Member Champion and the LGA).

It was **AGREED** that a cross party working group be established to create a report on Inclusivity and Community Engagement within Mid Devon that would feedback to the Scrutiny Committee in early 2024 with the following membership: Cllrs Mrs F J Colthorpe, G Westcott and L G J Kennedy.

17 PLANNING ENFORCEMENT REPORT (17:28)

The Committee had before it, and **NOTED**, a *report on planning enforcement from the Director of Place.

Consideration was given to:

- There had not been any specific analysis of the change in uptake following the introduction of a fee for pre-planning advice but it appeared that the uptake was the same. The introduction of the charge had generated income for the Council, which was used to help cover the costs of providing the service. Councillors should be confident that because of the pre-planning involvement that officers were better engaged with the applicants.
- Monitoring statistics of caseloads moving forwards and the grounds for determining whether a case went to Enforcement.
- Admin support for the two full time Enforcement Officers had now ceased and the two officers do their own admin as a self-contained unit and both members of staff were content with that way of working.
- Enforcement cases would in future be reported on as KPI's within the reports the department already deliver.
- Cabinet member for Planning and Economic Regeneration would have oversight of Enforcement.
- Reminder to the Planning Department to keep the Ward Councillors informed of progress of matters.
- Changes have been made within the Planning Department since the previous Scrutiny working group report, from an officer perspective they were on top of the cases and that they were managing the processes appropriately.
- There was now a dedicated planning solicitor.
- There was one outstanding action from the previous working group relating to the Local Enforcement plan, they were working upon a revised draft of the Local Enforcement Plan to make it as robust and fit for purpose as it could be. That draft plan could go to the Planning Policy Advisory Group for comment before it went to Cabinet.
- Enforcement action was taken against highest and high priority cases, as a statement of intent.

The Chairman invited Mr Warren (a former Cllr of the previous administration) to speak. Mr Warren provided his opinion on the planning enforcement working group actions. The Chairman thanked Mr Warren for his input.

The Chairman summed up that officers should keep ward members abreast of enforcement cases and that building KPI's on planning enforcement into the reporting process should commence. The report would be sent to the Planning Policy Advisory Group before it went to Cabinet.

Note: *Report previously circulated and attached to the minutes

18 **WORK PROGRAMME (57:56)**

The Committee reviewed the current *Forward Plan and *Scrutiny Work Plan and **NOTED** the following items:

Motion 583 - Protecting Rivers and Seas work – The Scrutiny Policy Research Officer would report back to the October meeting

Motion 564 – Inclusivity and Community Engagement – does Local Government work for women? The working group of Cllrs G Westcott, Mrs F J Colthorpe and L G J Kennedy would report back to the Scrutiny Committee in February 2024. Cllr R Gilmour had some reports that she would pass to the working group.

3 Rivers - This matter would come back to the Scrutiny Committee once both external reports had been received. An entire meeting would be dedicated to that matter in the September meeting.

Participatory budgeting review – this was going to the Community PDG. The Scrutiny Committee Policy Research Officer would continue to look for examples of Participatory Budgeting, he would look at other councils within the LGA and seek examples both good and bad.

National Grid – The Chairman said that she was not sure that that was something for this Scrutiny Committee to be concerned with. She thought it should go to the Net Zero Advisory Group in the first instance – that was agreed.

Vacancy Issues – This would be included within the Establishment update report in August 2023.

Other matters for the work plan:

1. Making Green requirements part of future planning applications – It was agreed that this matter would be passed to the Planning Policy Advisory Group (PPAG).
2. Installation of sprinkler systems into all new build residential properties. It was agreed that this matter would be passed to the PPAG.
3. Making the Exe Valley an Area of Outstanding Natural Beauty. – It was agreed that this was a matter for Parliament and that Councillors should lobby their MP's.

There was a conversation about the work of committees overlapping, and some of the matters that had been raised overlapping with Policy Development Groups.

The Chairman again stated her intention that the Scrutiny Committee would be as transparent as possible and that at the September meeting dealing with 3 Rivers as little as possible would go into part 2.

Note: *Scrutiny Work Plan previously circulated and attached to the minutes

(The meeting ended at 6.47 pm)

CHAIRMAN