

Scrutiny Committee

Monday, 25 November 2024 at 5.00 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Monday, 16 December 2024 at 5.00 pm

Please Note: This meeting will take place at Phoenix House and members of the public and press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

The meeting will be hybrid and an audio recording made and published on the website after the meeting.

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Meeting ID: 381 737 363 975

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Membership

Cllr L G J Kennedy
Cllr G Westcott
Cllr D Broom
Cllr E Buczkowski
Cllr A Cuddy
Cllr G Czapiewski
Cllr M Farrell
Cllr C Harrower
Cllr B Holdman
Cllr L Knight
Cllr R Roberts
Cllr S Robinson

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Apologies and Substitute Members**
To receive any apologies for absence and notices of appointment of substitute Members (if any).

- 2 **Declarations of Interest under the Code of Conduct**
To record any interests on agenda matters.

- 3 **Public Question Time**
To receive any questions from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

- 4 **Minutes of the previous meeting** (*Pages 5 - 22*)
To consider whether to approve the minutes as a correct record of the meeting held on Monday 28 October 2024

- 5 **Chair's Announcements**
To receive any announcements that the Chair of Scrutiny Committee may wish to make.

- 6 **Decisions of the Cabinet**
To consider any decisions made by the Cabinet at its last meeting on 12 November 2024 that have been called-in.

- 7 **Annual Report of Complaints and Compliments** (*Pages 23 - 40*)
To receive the Annual report of Complaints and Compliments from the Head of Digital Transformation and Customer Engagement

- 8 **The Impact of the Government's proposed changes to National Planning Policy on the Council's priorities and preparation of a new Local Plan** (*Pages 41 - 74*)
To receive a report from the Director of Place and Economy on the impact of Government's proposed changes to National Planning Policy on the Council's priorities and the preparation of a new Local Plan.

- 9 **Planning Enforcement Policy update** (*Pages 75 - 112*)
To receive an update on the Planning Enforcement Policy within the District.

- 10 **Portfolio presentation from the Cabinet Member for Parish and Community Engagement**
To receive a presentation from the Cabinet Member for Parish and Community Engagement regarding her portfolio.

11 **Work Programme** (Pages 113 - 134)

To review the existing Work Plan and consider items for the committee's future consideration, taking account of:

- a) Any items within the Forward Plan for discussion at the next meeting;
- b) Suggestions of other work for the committee in 2024/25.
- c) Consideration of any Work Proposal forms.

Stephen Walford
Chief Executive
Friday, 15 November 2024

Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

Residents, electors or business rate payers of the District may make a statement or shall be entitled to ask questions at a meeting which concerns the Council's powers / duties or which otherwise affects the District. If your question does not relate to an agenda item, the question must be submitted to the Democratic Services Manager two working days before the meeting to give time for a response to be prepared.

Please note that a reasonable amount of hardcopies at the meeting will be available, however this is a limited number. If you are attending the meeting and would like a hardcopy of the agenda we encourage that you notify Democratic Services in advance of the meeting to ensure that a hardcopy is available. Otherwise, copies of the agenda can be found on our website.

If you would like a copy of the Agenda in another format (for example in large print) please contact David Parker on: dparker@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 28 October 2024
at 5.00 pm

Present

Councillors

L G J Kennedy (Chair)
G Westcott (Vice-Chair), D Broom,
E Buczkowski, A Cuddy, G Czapiewski,
M Farrell, B Holdman, L Knight, R Roberts
and S Robinson

Apology

Councillor

C Harrower

Also Present

Councillors

S J Clist and J Lock

Also Present

Officers:

Richard Marsh (Director of Place & Economy), Maria De
Leiburne (Director of Legal, People & Governance
(Monitoring Officer)), Simon Newcombe (Head of Housing
& Health), Matthew Page (Head of People, Performance &
Waste), James Hamblin (Operations Manager for People
Services), Laura Woon (Democratic Services Manager)
and David Parker (Democratic Services & Policy Research
Officer)

Councillors

Online

J Buczkowski, A Glover, S Keable, L Taylor and D Wulff

Officers Online

Dean Emery (Head of Revenues, Benefits and Leisure)
and Jason Ball (Climate and Sustainability Specialist)

35 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Councillor C Harrower.

36 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT

No interests were declared under this item.

37 PUBLIC QUESTION TIME

Paul Elstone:

Question 1

The report says there are 10 Anaerobic Digesters in Mid Devon. Accessing data from various sources not least Mid Devon District Council's own planning portal reveals there are just 6 of which only 4 are operational.

These are:

Menchine – Nomansland
Red Linhay – Halberton,
Mount Stephen – Uffculme
Buttermoor - Loxbeare.

Non operational AD's are:

Willand,
Edgeworthy - Nomansland

Will the report be modified accordingly?

Question 2

Of those 6 AD's 3 can be considered as industrial in size
Menchine, Red Linhay, and Willand. Will the report recognise this?

Question 3

The report says the 10 AD's have an installed generating capacity of 5.3 megawatts. Data shows that the installed capacity is far less being 2.95 megawatts.

Will the report be modified accordingly?

Question 4

Importantly and I emphasise, the total planning consent generating capacity of the operating AD's in Mid Devon is 1.25 megawatts.

OFGEM Data reveals that both Menchine and Red Linhay have been grossly non-compliant with planning conditions going back to 2017 and 2019 respectively. Information that has repeatedly been made available to this Council but which it has failed to enforce.

As a result towns and villages right across Mid Devon have been blighted by high numbers even convoys of very large agricultural tractors.

Will the report recognise this?

Question 5

The report very disappointingly says that it is unable to provide details on AD feedstock land usage, or is there any attempt is made to do so. Especially disappointing this given it was the remit for the report in the first place.

Data available shows and again taken from the MDDC Planning Portal shows the land usage is of the order of 1350 acres.

To validate this statement the Red Linhay AD planning condition says that the AD can use a land area of 288 hectares or 714 acres to provide its 8,925 tonnes of arable and grass feedstock or an average yield of 31 tonnes per hectare.

Will the report now recognise this?

Question 6

What is the total land area of the solar farms once again information available on the planning site?

As an example, the planning information shows that Langford Solar Farm covers 60.78 hectares or 150 acres and generates up to 49.9 megawatts.

Question 7

How many solar farms are there in Mid Devon and where are they, information that should be readily available on examining planning applications?

Question 8.

What is the total design electrical output from the solar farms again information available on the planning site?

Question 9

Is there not merit in this Council preparing its own spread sheet for easy reference rather than being reliant on third parties to provide the information and which is not necessarily complete or correct?

Question 10

Does this Council have a map showing the locations and land area of solar farms this like Devon CPRE?

Question 11

Where is the biomass plant located?

Question 12

What is its feedstock and what amount?

The Chairman explained that as some of the questions had not been provided in writing in advance of the meeting that written responses would be provided within ten working days.

Barry Warren:

In section 1 is a paragraph in italics which sets out what was asked for by Scrutiny Committee.

The report does not answer the questions posed by committee but refers to Government figures which may well be out of date. It makes great reference to a 2018 report, 6 years out of date and prepared for a project that is no longer relevant.

Question 1. Where in the report does it deal with the question as to the *quantity of sites* that are up to date for Mid Devon?

Question 2. Where in the report does it deal with the question as to *how much land was devoted to renewable energies?*

Paragraph 2.1 advises '*currently only occupy a small amount of land and significant potential exists for further development of new installations*'.

Question 3. How can such a statement be creditable when Committee cannot be advised of up to date information as to how many particular sites there are, their locations and areas of land used?

Not only is this information not available in the report as requested but the answers to questions in an earlier meeting also support the fact that MDDC do not know what is going on. Please see minutes of 23 January 2024 meeting of Planning, Environment & Sustainability PDG minute 47 where no detailed information was given in response to questions.

The current report lacks the information requested and if the Scrutiny Committee are giving attention to renewable energy and the impact on land and the amount of land used then the following questions may also assist.

Question 4. Why is there no reference to the use of BESS [Battery Energy Storage Systems] or SMR's [Small Modular Reactors]?

Virtually all planning applications for solar sites include the area of land to be used and the expected output. These details are in the application, approved plans and, where appropriate, conditions.

Question 5. Why has this information not been collated to give more information and relevance to the questions asked?

Virtually all planning applications for AD Plants include the areas of land to be used for the provision of feedstock and the expected output are given. Invariably locations and areas for the spreading of digestate are also approved. These details are in the approved plans and where appropriate conditions.

Question 6. Why has this information not been collated to give more information and relevance to the questions asked?

In Section 1 of the report the recommendation is that 'Members note the report.'

Question 7. How can Scrutiny Committee discharge its function by noting a report that does not answer the questions asked?

The Chairman explained that as the questions had not been provided in writing in advance of the meeting that written responses would be provided within ten working days.

38 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 9 September 2024 were **APPROVED** as a correct record and **SIGNED** by the Chair.

39 **CHAIR'S ANNOUNCEMENTS**

The Chair asked the Committee that when the item on Voids came up that Members avoided mentioning individual addresses.

40 **DECISIONS OF THE CABINET**

The Committee **NOTED** that none of the decisions made by the Cabinet on 15 October 2024 had been called in.

41 **WHISTLEBLOWING - SIX MONTH UPDATE**

The Committee received and **NOTED** a verbal update from the Head of People, Performance and Waste.

The following was highlighted in the update:

- There had been a whistleblowing incident in the early part of the year as mentioned in the officer's previous report to the Committee. That incident had been independently investigated and none of the allegations had been upheld.
- There had been no incidents of whistleblowing in the past six months.

42 **ESTABLISHMENT - SIX MONTH UPDATE**

The Committee had before it and **NOTED** a *report from the Head of People, Performance and Waste and the Operations Manager for People Services.

The following was highlighted within the report:

- There had been a fall in sickness absence. The 10.45 days sickness per full time employee were reflected in similar organisations across the country, however, in the current year that number was on target to reduce.
- There had been a fall in agency expenditure.
- Since the report had been published, the 2024/25 Pay Award had been accepted by the Unions and would be made, including back pay, in November 2024. So the threat of strike action had now disappeared.
- Training available to Council Employees.
- The current predictions for staff turnover, were on course.
- The Structure Charts were appended to the report.
- The reasons for leaving the Council varied across different service areas.

Discussion took place with regard to:

- Whether there were a relatively small number of long term sickness absence cases that significantly impacted the overall figures? Last year there had been an increase in both short term and long term absences but this year the Council had made significant reductions to this overall figure. The Council was in a similar position to other councils who were experiencing the same level of challenge. It was asked on how many occasions had managers spoken to individuals who had been sick for more than six days in a rolling twelve month period? The Operations Manager for People Services did not have that figure to hand but would look into it and report back (and in a way that would not compromise data protection and/or employee confidentiality).
- The number of employees accepting the offer of free flu jabs was approximately the same as last year. With regards to its effectiveness and ability to help reduce sickness absence the Head of People, Performance and Waste felt that the Council would have a better idea when the report came back to the Scrutiny Committee in February 2025 after some of the peak flu and infection season in autumn and winter of 2024/25 had taken place.
- The level of apprenticeships across the Council. Currently the Council had twenty people on some form of apprenticeship scheme (whether those were people joining the Council as an apprentice or who were an employee who was being upskilled). Next year there would be people joining Leisure Services as apprentices. The Council were committed to growing their own talent as a workforce strategy. Training was provided to support apprentices if they needed more help with english and maths.
- All service areas were impacted by staff turnover but this was in line with the challenge that other authorities were experiencing.
- As a result all service areas had recently reviewed and considered their business continuity plans and the impact would be looked at on a service by service basis
- All vacancies across the Council were looked at on a weekly basis to ensure resource was being effectively assigned and approved.
- The Council was in the process of finalising a system where similar authorities shared data in order that they could benchmark each other.

Note: *report previously circulated.

43 MID DEVON HOUSING VOIDS

The Committee had before it and **NOTED** a *report from the Head of Housing and Health.

The following was highlighted within the report:

- Voids Management Policy.
- Temporary Accommodation resulted in a higher turnover of housing stock due to the type of use which sometimes saw moves as often as weekly. The frequent turnover of voids inevitably would impact on the overall occupancy rate for performance reporting. Every time that there was a change in temporary dwelling, the housing team had to action all the standard checks. Sometimes, due to its nature temporary housing repairs were prioritised over other types of housing repairs.
- There were a high number of development voids as the Council was currently getting assistance from Homes England, those properties would be demolished soon and new, more energy efficient homes built on those sites. Once the properties were demolished they would make a noticeable difference to the overall performance data and would enable several development schemes to proceed.
- The Council continued to achieve a voids target of 97% occupancy of its stock. When a property became void, there were various matters to consider such as redevelopment, demolition or simply decoration. There was always a compromise between meeting the pressure of social housing demand and ensuring safe, well maintained homes that met legal standards.

Discussion took place with regard to:

- Delays in properties being let due to some properties requiring substantial work, extended legal delays due to care plans not being in place or probate.
- There were 28 properties listed for demolition out of the 3000 properties that Mid Devon Housing owned.
- A separate category for legal delays / challenging issues would not work as those areas cut across all existing categories. There was not a category for serviceable properties as they fell under the standard category.

Notes: *report previously circulated.
 Cllr D. Broom arrived at 17:53hrs.

44 SOLAR PANEL FARMS AND ANAEROBIC DIGESTERS - QUANTITY OF SITES AND LAND USE

The Committee had before it and **NOTED** a *report from the Director of Place and Economy.

The following was highlighted within the report:

- Circa 0.135 of land in mid Devon was in use to support renewable energies.
- Publically available data was taken from the [Department for Energy Security and Net Zero](#) (DESNZ).

Discussion took place with regard to:

- The target figure for land that was considered acceptable was already considered within the Council's existing Local Plan.

- There was a change in national guidance relating to on-shore wind farms.
- A discussion had to take place within the Council as to what types of renewables the Council most wished to support and there was an opportunity to confirm that in the new Local Plan. There was a concern not to take out of farming, productive agricultural land.
- Impacts upon road infrastructure particularly around anaerobic digesters where the network needed sufficient infrastructure to handle the traffic. Several of the renewable energy options had challenges around infrastructure including grid connections. The challenge was to find the right solution for the right place and carry that forward into planning policy.
- Public mood had changed, now people were more accepting of on-shore wind farms, and discontent had risen in relation to anaerobic digesters. Once solar arrays and wind turbines were in place they did not make as heavier demand on the local road network as anaerobic digesters did.
- As table 3 demonstrated, Mid Devon was the most “grid constrained” district amongst the four selected Devon authorities. What could be done to resolve the lack of grid capacity in Mid Devon? It was stated that infrastructure providers had woken up to the problem and were looking at how they could address the problem. The Council were doing what they could to be ready.

Note: *report previously circulated.

45 **PORTFOLIO PRESENTATION FROM THE CABINET MEMBER FOR HOUSING , ASSETS AND PROPERTY.**

The Committee received and **NOTED** a presentation from the Cabinet Member for Housing, Assets and Property Services.

The Cabinet Member thanked officers and the Mid Devon Housing Team for their dedication, professionalism, endeavours and achievements. He said “we punch above our weight and were regarded as an exemplar local authority and a national lead for our proactive approach. We should be proud”. He also thanked the Homes Policy Development Group for their hard work and efforts in bringing forward policy and continuing to establish working groups to facilitate that.

The Cabinet Member highlighted

- Moving away from flexible tenancies to secure tenancies and in so doing freeing up officer time to deal with other matters.
- The Council were aware of their duty to be fiscally responsible.
- The Council’s duty to provide safe, secure and affordable housing to families and individuals who were unable to access private housing.
- The Council had made a commitment to Net Zero.
- Mid Devon Homes (MDH) had eight objectives to try to strive for continuous improvement and were well on course to achieve those objectives.
- At a meeting the Cabinet Member had attended with the Housing Ombudsman, Mid Devon District Council officers were leading the meeting.
- The Council was accelerating new social /affordable housing projects.
- The modular homes plan was well underway with Shapland Place and St Andrews developments receiving a number of national awards.

- The greatest concern was getting those homes linked to utilities whose providers were slow to react.
- An aim was to encourage people to buy and stay in the area rather than leave at the age of 25 and return at the age of 55.
- Grant funding had been secured by officers who had a good relationship with Homes England.
- The quarterly updates to the Homes Policy Development Group were the best seen in five years.
- There had been huge strides in tenant engagement which had much improved from five years ago with social media and schemes like the “Best Kept Garden” a competition over seven different categories; a quarterly newsletter including advice and features such as a recipes page; “New Tenant” information packs, an “affordability wheel” to assist new tenants.
- The Cabinet Member mentioned, roadshows, Churches Housing Action Team (CHAT), Exeter Community Energy Project, Police engagement, six monthly estate walks and new environmental projects such as a small community orchard on old allotments at Uplowman and a possible community orchard at St Georges Court.
- MDH had received over 20 awards in the last year for development, net zero/modular homes/and in the prevention of damp and mould. The Council was a national lead and officers were invited abroad to liaise with other authorities on “the Council’s approach”.
- The Local Authority Housing Fund had been used towards the purchase of 12 properties for the use of those who would otherwise be homeless avoiding the funds being spent on bed and breakfast or hotel accommodation. This was helping to overcome homelessness pressures and meet the Council’s refugee legislation commitment.
- Those houses would become long term Council assets such as Belmont Road and St Pauls.
- Care leaver accommodation in dedicated units with the Housing Revenue Account new build programme, again showing Mid-Devon leading the way.
- New development accelerated new council housing delivery with high quality build and ultra-low running costs for tenants.

Challenges

- There was a generational change in the consumer regime with new consumer standards/ RSH inspection, which was like an Ofsted for Housing.
- The Housing Ombudsman was driving complaints but MDH were leading the way on complaints handling and using complaints to drive service change/continuous improvement.
- Utility Companies delays regarding new development. Unfortunately, the Council had no control or leverage.
- There were challenges in recruiting trades professionals, which had particularly been affected by the closure of Petroc building apprenticeships.
- The change in Central Government had meant that there was a lot of uncertainty around “Right to Buy” and affordable housing delivery support.
- Future pipeline of development – where would the land be coming from.
- Financial risk from “Claim Farming”, recently three claims for disrepair had been filed against the Council and all three had been defended successfully.

46 WORK PROGRAMME

The Committee had before it and **NOTED** *the Forward Plan and the *Scrutiny Committee Work Programme.

The following was highlighted:

- It was hoped that a briefing to the Scrutiny Committee would be given in February 2025 relating to the wider new housing regulatory framework around the consumers standards,
- The Destination Management Plan report had been moved to December 2024 so that it could include statistics arriving at the end of October and therefore would be more up to date,
- The title of the report on the impact of the Government's proposed changes to National Planning Policy on the Council's priorities and preparation of a new Local Plan had been changed to reflect that the new Government had already published its proposed changes to the National Planning Policy Framework and had consulted on these.

Discussion took place with regard to:

- The visit of South West Water awaited completion of the Water Cycle report which had now been commissioned and was expected early in the new year. It was **AGREED** to invite South West Water to the meeting of the Scrutiny Committee on 17 March 2025.
- The Air Quality Action Plan was going to the Community People and Equalities Policy Development Group on 2 December 2024, and to Cabinet on 7 January 2025.
- Ambulance response times and take up.

Note: *The Forward Plan and the *Scrutiny Committee Work Programme were previously circulated.

(The meeting ended at 7.05 pm)

CHAIR

PAUL ELSTONE – MDDC SCRUTINY COMMITTEE 28TH OCTOBER 2024
(ISSUE)
PUBLIC QUESTIONS

My questions relate to Agenda Item 10 Solar Farms and Anaerobic Digester Quantity of Sites and Land Use.

General response to the questions raised:

The Department for Energy Security and Net Zero (DESNZ) maintains a summary of data and locations. For the purposes of the report, we used statistics published by Department for Energy Security and Net Zero (DESNZ) on renewable energy installed in Mid Devon. <https://www.gov.uk/government/statistics/regional-renewable-statistics>.

This data is accredited and is official data.

An interactive map of the REPD data shows the geographical spread of renewable energy projects.

Drawing data from planning records would be a time-consuming and manual task which the Council does not have the time or resource to undertake and would detract the Council from undertaking mandatory, income generating work. This is especially relevant when much information is already contained within the public domain through planning records and other sources.

Question 1

The report says there are ten (10) Anaerobic Digester's in Mid Devon. Accessing data from various sources not least MDDC own planning portal reveals there are just 6 of which only 4 are operational.

These are:

Menchine – Nomandsland
Red Linhay – Halberton,
Mount Stephen – Uffculme
Buttermoor - Loxbeare.

Non operational AD's are:

Willand,
Edgeworthy - Nomansland

Will the report be modified accordingly?

Response: No – the report will not be modified as, as set out above and explained in the Scrutiny meeting, it references data drawn from and published by DESNZ.

Question 2

Of those 6 AD's 3 can be considered as industrial in size
Menchine, Red Linhay, and Willand. Will the report recognise this ?

Response: As set out above, the report utilises DESNZ data. This does not differentiate AD types.

Question 3

The report says the ten (10) AD's have an **installed** generating capacity of 5.3 Mega Watts. Data shows that the installed capacity is far less being 2.95 mega watts.

Will the report be modified accordingly?

Response: The report will not be modified as it draws on official, published DESNZ data.

Question 4

Importantly and I emphasise the total planning consent generating capacity of the operating AD's in Mid Devon is 1.25 mega watts.

OFGEM Data reveals that both Menchine and Red Linhay have been grossly non-compliant with planning conditions going back to 2017 and 2019 respectively. Information that has repeatedly been made available to this Council but which it has failed to enforce.

As a result, towns and villages right across Mid Devon have been blighted by high numbers even convoys of very large agricultural tractors.

Will the report recognise this?

Response: The report relays information held by DESNZ in relation to various energy technologies within Mid Devon. The report recognises that different technologies have different impacts upon the natural environment and residents, and acknowledges that some AD plants in particular do attract complaints or concerns from residents – often relating to vehicle movements.

Question 5

The report very disappointingly says that it is unable to provide details on AD feedstock land usage, or is there any attempt is made to do so. Especially disappointing this given it was the remit for the report in the first place.

Data available shows and again taken from the MDDC Planning Portal shows the land usage is of the order of 1350 acres.

To validate this statement the Red Linhay AD planning condition says that the AD can use a land area of 288 Hectares or 714 acres to provide its 8,925 tonnes of arable and grass feedstock. or an average yield of 31 tonnes per hectare.

Will the report now recognise this?

Response: The report did not contain this level of detail as no data of this nature is provided through DESNZ. Although data could be manually drawn from the planning

database this would be time-consuming and no resource exists to support the work. Undertaking the work would therefore create pressures on to the service resulting in negative impacts on performance and income generating work when pertinent information is already provided through the published report and information is already readily available in the public domain for those wishing to access it.

Question 6

What is the total land area of the solar farms once again information available on the planning site ?

As an example, the planning information shows that Langford Solar Farm covers 60.78 Hectares or 150 Acres and generates up to 49.9 mega watts.

Response: This cannot be answered without manually searching all applications and, even then, information may not be contained. Information will be available in the public domain and the report discusses, in a broad sense, land take associated with renewable energies including solar.

Question 7

How many Solar Farms are there in Mid Devon and where are they, information that should be readily available on examining planning applications?

Response: The DSNEZ data references photovoltaics rather than solar farms. Information is publically available on the planning portal information and is available to search. Information has not been drawn down to support this report owing to the significant numbers of solar applications contained on the planning system and the time required to do this.

Question 8.

What is the total design electrical output from the Solar Farms again information available on the planning site?

Response: This cannot be answered without manually searching all applications. Information will be available in the public domain.

Question 9

Is there not merit in this Council preparing its own spread sheet for easy reference, rather than being reliant on 3rd parties to provide the information and which is not necessarily complete or correct?

Response: There is no obligation on the Council to record this data in this format and resource/funding does not exist to support it. As set out before: the DSNEZ data is official and accredited data.

Question 10

Does this Council have a map showing the locations and land area of Solar Farms, this like Devon CPRE?

Response: No, the Council does not hold a current plan showing all solar farm locations. Other bodies maintain maps of solar parks – although it is noted that these are often at a very high-level and offer little or no detail on precise location, size etc.

Question 11

Where is the Biomass plant located?

Response: It is not possible to answer this as the DSNEZ data does not detail locations. For clarification also: The data refers to a 'Plant Biomass' generating facility, which is possibly an important clarification versus a 'Biomass Plant'.

Question 12

What is its feedstock and what amount?

Response: It is not possible to answer this as the plant/location is not known from the DSNEZ data.

SCRUTINY COMMITTEE
28 October 2024
Public Questions

Barry Warren – Local Resident.

My questions refer to agenda item 10 which starts on page 57 of your bundle.

In section 1 is a paragraph in italics which sets out what was asked for by Scrutiny Committee.

The report does not answer the questions posed by committee but refers to Government figures which may well be out of date. It makes great reference to a 2018 report, 6 years out of date and prepared for a project that is no longer relevant.

1. Where in the report does it deal with the question as to the *quantity of sites* that are up to date for Mid Devon?

Response: Table 1 of the report deals with “the number of installations in Mid Devon”, which deals with this point – noting that it deals with PV cells rather than sites. The data is drawn from accredited and official data collated by DESNZ (Department for Energy Security and Net Zero) and the most recent data set is from 2023. It is therefore also considered to be current and robust.

2. Where in the report does it deal with the question as to *how much land was devoted to renewable energies*?

Response: Paragraphs 1.11 and 1.12 of the report deal with the exact point of land devoted to renewables energies and, extrapolating an estimation in relation to wind and solar land-take from data provided, the report states; “less than around 0.13% of land is currently in use for either solar or wind power generation within Mid Devon at this time”. Whilst this does not deal with all ‘renewables’, it is considered to give a flavour for land-take by renewables.

Paragraph 2.1 advises ‘*currently only occupy a small amount of land and significant potential exists for further development of new installations*’.

3. How can such a statement be credible when Committee cannot be advised of up to date information as to how many particular sites there are, their locations and areas of land used?

Response: As set out above; the data is official DESNZ data which is up to date (2023 data), the data specifies number of sites (or PV panels) and the report provides indicative figures in relation to land use/occupation. The statement is therefore credible.

Not only is this information not available in the report as requested but the answers to questions in an earlier meeting also support the fact that MDDC do not know what is going on. Please see minutes of 23 January 2024 meeting of Planning, Environment & Sustainability PDG minute 47 where no detailed information was given in response to questions.

The current report lacks the information requested and if the Scrutiny Committee are giving attention to renewable energy and the impact on land and the amount of land used then the following questions may also assist.

4. Why is there no reference to the use of BESS [Battery Energy Storage Systems] or SMR's [Small Modular Reactors]?

Response: No request was made to include information about BESS or SMR's and is not included within the DESNZ data.

Virtually all planning applications for solar sites include the area of land to be used and the expected output. These details are in the application, approved plans and, where appropriate, conditions.

5. Why has this information not been collated to give more information and relevance to the questions asked?

Response: As you will appreciate, this information is not available from the DESNZ data and so collation would have to be undertaken manually in-house. This has not been undertaken as the Council does not have the resources available to readily undertake such tasks and much information is already available and contained within the public domain.

Virtually all planning applications for AD Plants include the areas of land to be used for the provision of feedstock and the expected output are given. Invariably locations and areas for the spreading of digestate are also approved. These details are in the approved plans and where appropriate conditions.

6. Why has this information not been collated to give more information and relevance to the questions asked?

Response: This question around information is understood to relate to AD plants and associated land-take as set out in the supporting text to the question. As you will appreciate and as set out in the response to the previous question, this information is not available from the DESNZ data and so collation would have to be undertaken manually in-house. This has not been undertaken as the Council does not have the resources available to readily undertake such tasks and much information is already available and contained within the public domain.

In Section 1 of the report the recommendation is that 'Members note the report.'

7. How can Scrutiny Committee discharge its function by noting a report that does not answer the questions asked?

Response: As set out above; it is considered that the report addressed the original request as set out. The report is necessarily high-level but draws on up-to-date and relevant information drawn chiefly from accredited statistics provided by DESNZ. To draw further data from Council systems would require significant additional time and resources and would risk

mixing data sources. The Scrutiny committee discussed the report at their 28th October meeting and it was agreed to note the report.

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Report for: Scrutiny

Date of Meeting:	25 November 2024
Subject:	Annual Report Compliments, Comments & Complaints
Cabinet Member:	Cllr J Wright, Service Delivery & Continuous Improvement
Responsible Officer:	Lisa Lewis, Corporate Manager for Business Transformation & Customer Engagement
Exempt:	N/A
Wards Affected:	All
Enclosures:	Appendices 1 to 5

Section 1 – Summary and Recommendation(s)

Annual report on compliments, comments and complaints received as part of our 2 plus million contacts with customers in 23/24.

Recommendation(s):

- 1. To note the record of compliments, comments and complaints**
- 2. To note the reallocation of this annual report to the Service Delivery & Continuous Improvement PDG and Cabinet.**

Section 2 – Report

- 1.0 Introduction
- 1.1 This report covers two time periods. Firstly the financial year 23/24 and then secondly activity around the new Code of Complaints which has been implemented 24/25 to date.
- 1.2 The Council receives contact from customers in a variety of ways for all services. The table below shows the overall number of contacts into Customer Services for each method for 23/24. Included are the previous year's numbers for comparison. This is to provide context for customer

contacts through the contact centre and does not include the many thousand points of service delivery across services to our customers.

Contact Method	01 April 2022 – 31 March 2023	01 April 2023 – 31 March 2024
Number of visitors to the office for enquiries	6,021	5,693
Telephone Payments (including automated) *	70,756	101,962
Calls to call centre	91,867	81,413
Digital Payments	110,745	134,374
Online- forms submitted	64,816	82,532

- 1.3 This report provides a summary of the number of complaints, compliments and comments received for each service for 23/24 (see **Appendix 1**).
- 1.4 An official complaint is recorded when a customer expresses dissatisfaction with a service they have received. In some instances customers use the complaints system prior to requesting a service. These requests are triaged accordingly where we are aware and re-logged as service requests.
- 1.5 Compliments, comments and complaints are recorded on the Customer Relationship Management (CRM) system in accordance with our corporate complaints policy. The name, address and contact details of the complainant, the nature of the complaint and the outcome of the complaint investigation are all recorded.
- 1.6 Members are provided with performance statistics for complaints via the quarterly PDG Performance Management reports and as part of the Audit cycle.
- 1.7 Housing complaints are now reported separately via the Homes PDG. Any questions regarding housing should be put to the relevant service or committee. Figures are included here only as a corporate oversight across all services.

2.0 Performance Statistics

- 2.1 Feedback is recorded on the CRM. Based on the information recorded we are able to extract the number of complaints raised at each level. Level 1 complaints are investigated by a designated officer and Level 2 Complaints are investigated by more senior officers, usually Operational or Corporate Managers. This is dependent upon the seriousness or nature of the complaint.
- 2.2 Numbers of complaints upheld is recorded within the CRM.
- 2.3 As a measure of performance with complaint handling, the number acknowledged within 3 working days and resolved within timescales is

recorded and reported on monthly as mentioned at 1.6. NB. The acknowledgement target has been revised to 5 days within the new Code of Complaints and policy which came into effect summer 2024.

3.0 What does the feedback tell us?

- 3.1 As a result of complaints made, service managers are able to make changes to the working practices within service areas. These are also recorded in the CRM. Feedback where a change can be identified is an excellent way to improve services and respond to the needs of our customers.
- 3.2 Compliments received are often for members of staff who customers feel have done a good job. These are fed back to staff by line managers and where appropriate in staff/member communications.
- 3.3 What are the numbers telling us? We actively encourage feedback from customers and saw a 5% overall increase in customers telling us how we are doing for the period.
- 3.4 The contextual environment in which we are working is important. Staffing issues such as retention and staff savings targets, which Members are aware of, have affected services across the organisation and means there is a continuing need to review and revise how we provide some services which can lead to gaps between our ability to deliver and customer expectations.
- 3.5 However, despite the challenges that MDDC faced with vacancy management activities during 23/24 our service levels have seen a limited impact with a small increase of 6% complaints logged.

Some services have shown a marked improvement however.

Service	Percentage Decrease from 22/23
Council Tax Recovery	64%
Customer Services	47%
Democracy & Members	94%
Homelessness	52%

No services during the 23/24 period showed a significant or material increase in complaints which would indicate areas for concern.

4.0 Referrals to the Ombudsman Complaints Service 23/24

- 4.1 Nine complaints were made to the ombudsman by residents. Half were closed after the initial enquiry not requiring further investigation. And all but one other referred back for local resolution or signposted back to us to address under our complaints process.

- 4.2 Only one of the Ombudsman cases was upheld. This matches the Ombudsman outturn for 22/23 and is a testament to staff robustly applying processes and procedures in the delivery of services. A summary of complaints to the Ombudsman 23/24 (the latest available) is provided at **Appendix 2**.
- 4.3 The Local Government Ombudsman Annual review letter is provided at **Appendix 3**.
- 4.4 For comparison, a table of neighbouring authorities and their ombudsman cases has been provided at **Appendix 4**.
- 5.0 **The Future for Customer Feedback at MDCC.**
- 4.5 The authority is currently migrating the customer feedback process to the new CRM self-serve portal which went live in August 2024. As part of that migration and the requirement to ensure more oversight of performance around complaints, additional monitoring is being implemented.
- 4.6 As part of the migration process we have revisited training with responding officers and reviewing performance reporting to improve escalation of complaint responses and adequately monitor actions and learning as outcomes of customer feedback.
- 4.7 The new Code of Complaints Policy was progressed successfully through committee during the summer of 2024 and the new system went live on 1 Aug 2024 with additional monitoring in place.
- 4.8 As part of the new code, a Senior Responsible Officer and a Member Responsible for complaints were identified. Those being the Head of Digital Transformation & Customer Engagement and the Cabinet member for Service Delivery & Continuous Improvement respectively.
- 4.9 At the time of writing the report we do not have a full quarter's data on the new system, but we are able to provide a snapshot of performance against the new code at Appendix 5.
- 4.10 The figures show that we appear to be under-performing against the internal acknowledgement target at 37% (target 85%). The Digital Services team have established that some of this is due to officers providing a final response before the acknowledgement target date and that field therefore not being completed. The actual figures are nearer to 44%. Further training will be provided to officers and the monitoring reports reconfigured to reflect the anomaly. Some apparent service degradation was expected as we embedded a new process and recording system. This is not currently a cause for major concern.

- 4.11 Digital Services has a small number of technical issues which it continues to work on during this bedding in period of the system. Additional training is being offered to staff and the Complaints Policy is now mandatory training for staff to ensure that any officer can/will log a complaint on behalf of a customer should their assistance be needed to do so.
- 4.12 Resolution target for final responses has a corporate target of 85% completion within time. It is pleasing to see that this is currently at 100%. The data relates to only the first two months of the new code/system and is at a period within the year which is traditionally quieter for complaints so we expect to see performance fluctuate throughout the rest of the year according to season.

5.0 Future Governance and Oversight

- 5.1 Within the new code there is an expectation that there will be increased oversight of complaints. The new role of Member Responsible sitting with the Cabinet member for Service Delivery & Continuous Improvement will now receive quarterly reports on complaints performance from the Head of Digital Transformation & Customer Engagement.
- 5.2 Additionally, qualitative analysis of performance reporting and improvement activities needs to be defined and recorded. This work is about to commence.
- 5.3 It is suggested, as per the report recommendation, that with the creation of the PDG for Service Delivery & Continuous Improvement that this annual report sits with PDG/Cabinet from 24/25 onwards.

Financial Implications: None

Legal Implications: None

Risk Assessment: Accurate recording and monitoring of complaints is good practice and ensures openness and accountability to all customers.

Impact on Climate Change: None

Equalities Impact Assessment: Compliments, comments and complaints are received by a variety of means which ensures that there is equality of opportunity for all customers. In addition, where there is a need Customer Services staff will always assist in the recording of these communications and complaints. There is also an interpretation service available. Reports of discrimination logged with complaints is monitored and reported to the Equalities, Diversity and Inclusion group.

Relationship to Corporate Plan: To ensure that the Council provides access to services for customers in whatever way they choose to transact with us. Ensuring extended access via

digital means and improving the way that we hold information and deliver our services to customers, placing them at the centre of what we do.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 12 November 2024

Statutory Officer: Maria de Leiburne
Agreed on behalf of the Monitoring Officer
Date: 12 November 2024

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 12 November 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 29 October 2024

Cabinet member notified: yes

Section 4 - Contact Details and Background Papers

Contact: Lisa Lewis, Corporate Manager for Digital Transformation & Customer Engagement
Email: llewis@middevon.gov.uk
Telephone: 01884 234981

Background papers:

Appendix 1 – Summary and Totals of Feedback

Appendix 2 – Summary of Complaints to Ombudsman

Appendix 3 – Ombudsman Annual Review Letter 2022-23

Appendix 4 – Ombudsman Local Authority Benchmarking

Appendix 5 – Sample of Compliments

Appendix 1

Feedback Processed

01 April 2022 – 31
March 2023

01 April 2023 – 31
March 2024

Service	Complaints	Compliments	Comments
Affordable Housing	1		
Business Rates			1
Car Parks	6		6
Community Development	1		
Community Safety			1
Council Tax Billing	9	1	1
Council Tax Recovery	11		
Council Tax Reduction	1		
Customer Services	15	6	5
Democracy and Members	16		
Dog Strays or Fouling	1		
Drainage and Flooding			
Electoral Register			1
Environmental Issues	1		
Environmental Services	5		
Finance	1		
Fly Tipping	1	2	
Garden Waste		2	5
Grass Cutting	1		1
Health & Safety	1		
High Hedges			

Complaints	Compliments	Comments
7	1	2
2		
7		1
4		1
1		
8	8	
1		
1		
1		
2	1	
3		
4		
1	1	
5	1	2
11	1	
1		1
1		

Homelessness	18			8		
Housing Benefits	8			4		
Housing Repairs	108	36	57	119	52	73
Housing Tenancy	107	26	21	135	18	14
ICT Services	1		1	2		
Legal Services	1					
Leisure	1			4		
Licensing	1			4		
Markets	1					
Monitoring Officer	9			1		
Parks and Flower Beds				1		
Planning - Development Control	23		1	23		
Planning - Forward Planning	2		1	1		1
Play Areas				1		1
Pollution incl Noise	1			3		
Private Sector Housing	2			3		
Property Services	6	1	2	9		2
Public Toilets	1					
Recycling	35	6	19	43	13	14
Refuse Collection	54	9	15	60	10	16
Street Cleansing	1	1				
Street Naming	1					
Trade Waste	1				1	1
Uncategorised				1		
Waste Transfer Station				1	1	

Appendix 2

Summary of Complaint to the Ombudsman 23/24

Reference	Authority	Category	Received
22015489	Mid Devon District Council	Planning & Development	17/04/2023
23001119	Mid Devon District Council	Planning & Development	27/04/2023
23002066	Mid Devon District Council	Housing	17/05/2023
23003224	Mid Devon District Council	Planning & Development	12/06/2023
23003492	Mid Devon District Council	Planning & Development	14/06/2023
23005024	Mid Devon District Council	Benefits & Tax	12/09/2023
23005576	Mid Devon District Council	Benefits & Tax	20/07/2023
23007845	Mid Devon District Council	Housing	24/08/2023
23015217	Mid Devon District Council	Housing	22/12/2023

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17 July 2024

By email

Mr Walford
Chief Executive
Mid Devon District Council

Dear Mr Walford

Annual Review letter 2023-24

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2024. The information offers valuable insight about your organisation's approach to complaints, and I know you will consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to ensure effective ownership and oversight of complaint outcomes, which offer valuable opportunities to learn and improve. In addition, this year, we have encouraged Monitoring Officers to register to receive the letter directly, supporting their role to report the decisions we uphold to their council.

For most of the reporting year, Paul Najsarek steered the organisation during his tenure as interim Ombudsman, and I was delighted to take up the role of Ombudsman in February 2024. I look forward to working with you and colleagues across the local government sector to ensure we continue to harness the value of individual complaints and drive and promote systemic change and improvement across the local government landscape.

While I know this ambition will align with your own, I am aware of the difficult financial circumstances and service demands that make continuous improvement a challenging focus for the sector. However, we will continue to hold organisations to account through our investigations and recommend proportionate actions to remedy injustice. Despite the challenges, I have great confidence that you recognise the valuable contribution and insight complaints, and their swift resolution, offer to improve services for the public.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic. This year, we also provide the number of upheld complaints per 100,000 population.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and give credit to organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 24 July 2024. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Supporting complaint and service improvement

In February, following a period of consultation, we launched the [Complaint Handling Code](#) for councils, setting out a clear process for responding to complaints effectively and fairly. It is aligned with the Code issued to housing authorities and landlords by the Housing Ombudsman Service and we encourage you to adopt the Code without undue delay. Twenty councils have volunteered to take part in an implementation pilot over the next two years that will develop further guidance and best practice.

The Code is issued to councils under our powers to provide guidance about good administrative practice. We expect councils to carefully consider the Code when developing policies and procedures and will begin considering it as part of our processes from April 2026 at the earliest.

The Code is considered good practice for all organisations we investigate (except where there are statutory complaint handling processes in place), and we may decide to issue it as guidance to other organisations in future.

Our successful complaint handling training programme continues to develop with new modules in Adult Social Care and Children's Services complaint handling available soon. All our courses include practical interactive workshops that help participants develop their complaint handling skills. We delivered 126 online workshops during the year, reaching more than 1,700 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

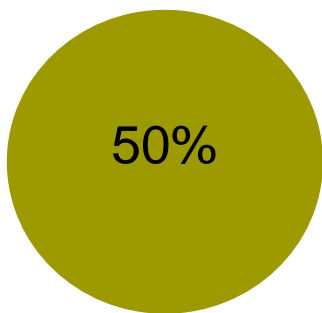
Returning to the theme of continuous improvement, we recognise the importance of reflecting on our own performance. With that in mind I encourage you to share your view of our organisation via this survey: <https://www.smartsurvey.co.uk/s/ombudsman/>. Your responses will help us to assess our impact and improve our offer to you. We want to gather a range of views and welcome multiple responses from organisations, so please do share the link with relevant colleagues.

Yours sincerely,



Amerdeep Somal
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld



50% of complaints we investigated were upheld.

This compares to an average of **63%** in similar organisations.

1
upheld decision

This is 1.2 upheld decisions per 100,000 residents.

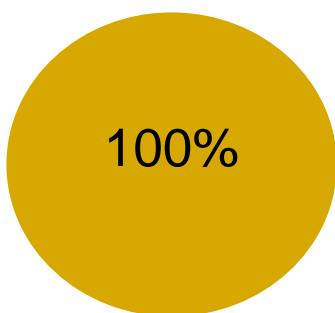
The average for authorities of this type is 1.2 upheld decisions per 100,000 residents.

Statistics are based on a total of **2** investigations for the period between 1 April 2023 to 31 March 2024

Compliance with Ombudsman recommendations

No recommendations were due for compliance in this period

Satisfactory remedy provided by the organisation



In **100%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **21%** in similar organisations.

1
satisfactory remedy decision

Statistics are based on a total of **1** upheld decision for the period between 1 April 2023 to 31 March 2024

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Appendix 4

Local Authority Benchmarking – Neighbouring Devon Districts – 2023-2024

Authority	Number of complaints Investigated	Complaints Upheld
East Devon	10	3
Mid Devon	6	1
North Devon	9	5
South Hams	8	1
Teignbridge	9	2
Torridge	7	1
West Devon	5	0

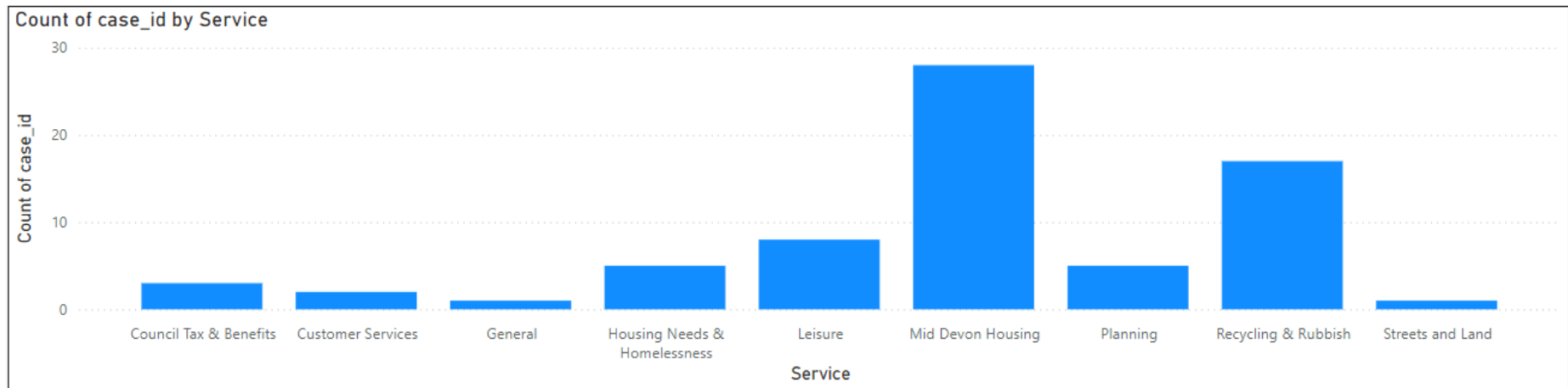
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Appendix 5

Aug-Sept 2024 Acknowledgement & Resolution Performance



Aug-Sept 2024 Complaints by Service





Report for: Scrutiny

Date of Meeting:	25 th November 2024
Subject:	The impact of the Government's proposed changes to National Planning Policy on the Council's priorities and preparation of a new Local Plan.
Cabinet Member:	Councillor Steve Keable, Cabinet Member for Planning and Economic Regeneration.
Responsible Officer:	Richard Marsh, Director of Place and Economy
Exempt:	Not Applicable
Wards Affected:	All
Enclosures:	Appendix 1 – Mid Devon District Council's submitted response to the Government's consultation on proposed reforms to the National Planning Policy Framework and other changes to the planning system

Section 1 – Summary and Recommendation

This report is produced following the request of the Scrutiny committee to receive a report on *"the impact of the Government's proposed changes to National Planning Policy on the Council's priorities and preparation of a new Local Plan"*

Recommendations:

- 1. That Members note the report.**

Section 2

1.0 Report

- 1.1** The request for this report was made at the Scrutiny Committee meeting held on 17 June 2024. This predates the general election held on 04 July 2024,

the subsequent publication of proposed reforms to national planning policy by the newly elected Government with a Labour administration, and autumn budget announcements made on 30th October 2024. However, the request was made at the time the Labour party had published its manifesto. This made clear that “planning reform to build 1.5 million new homes” is a key part of the Labour party’s pledge to “kickstart economic growth”. The manifesto states “*Britain is hampered by a planning regime that means we struggle to build either the infrastructure or housing the country needs*” and includes a pledge “*we will immediately update the National Planning Policy Framework to undo damaging Conservative changes, including restoring mandatory housing targets. We will take tough action to ensure that planning authorities have up to date Local Plans and reform and strengthen the presumption in favour of sustainable development.*” The manifesto also includes references to supporting the development of a modern economy, a ‘brownfield first’ approach, and ‘introducing effective mechanisms for cross-boundary strategic planning’.

- 1.2 The new Government published its proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system on 30th July 2024. These proposals were subject to a public consultation which ran from 30th July to 24th September 2024. The consultation proposals have reflected the pledges set out in the Labour party’s manifesto.
- 1.3 The Council submitted a detailed and comprehensive response to the Government’s consultation on 23rd September. This response followed careful consideration of the consultation proposals by the Planning Policy Advisory Group at its meeting on 29th August, and the Cabinet at its meeting on 17th September. All Members have been engaged in formulating the Council’s response to the Government. The Council’s submitted response to the consultation is attached to this report in **Appendix 1**.
- 1.4 The purpose of this report is not to revisit the Council’s submitted response in detail, but to provide an assessment of the potential impact of the Government’s proposed changes to National Planning Policy on the Council’s priorities and preparation of a new Local Plan. Members are reminded that the Government’s proposals remain consultation proposals at this time and that the Government is currently analysing the feedback to this. In its autumn budget document “Fixing the foundations to deliver change” the Government has confirmed its intention to respond to the NPPF consultation “before the end of the year to confirm pro-growth reforms to the planning system”.

2.0 Council priorities – Corporate Plan

- 2.1 The Council’s priorities are set out in the Council’s Corporate Plan 2024 – 2028. This details the Council’s aims and objectives, which are centred around five themes: Planning, Environment and Sustainability; Community, People and Equalities; Homes; Economy and Assets; and Service Delivery and Continuous Improvement. The Government’s proposed changes to

national planning policy are most relevant to the three themes: Planning, Environment and Sustainability; Homes; and Economy and Assets.

Planning, Environment and Sustainability

- 2.2 This Corporate Plan theme includes a focus on responding to the climate emergency, moving towards net zero carbon targets, working with communities to bring forward the new local plan, increasing biodiversity and protecting Mid Devon's natural and built environment.
- 2.3 The proposed changes to the NPPF will remove additional tests that are placed on on-shore energy from wind development (including the current requirements for sites to be allocated in local plans and for proposals to have community support), and reintegrate on-shore wind into the National Significant Infrastructure Project regime with thresholds for this form of energy together with solar developments. The revised wording makes clear local planning authorities should support planning applications for all forms of renewable and low carbon development, including community-led projects. These proposed changes could assist in bringing forward renewable energy development proposals in the district and supporting the Corporate Plan theme. The proposed changes to the NPPF do not make any changes to national planning policy in relation to community engagement on planning applications that have been submitted to the Council for determination or in relation to the preparation of local plans, or changes in relation to national planning policy for biodiversity or relevant to protecting Mid Devon's natural and built environment (i.e. landscape and heritage).

Homes

- 2.4 The Corporate Plan theme 'Homes' seeks to increase the delivery of quality designed, well built homes across the housing market to meet identified needs, delivering new affordable and social homes annually, improving and maintaining the existing stock to the highest standards (including the building of energy efficient and low carbon homes). These corporate aims remain consistent with the Government's proposed changes to the NPPF and other changes to the planning system in relation to planning for new homes.
- 2.5 The Government has made clear its intention to reverse changes made to the NPPF by the previous Government in December 2023, and it seeks to introduce measures that will increase the number of homes built nationally. These include:
- reforming the presumption in favour of sustainable development, by making clear it is triggered when relevant policies for the supply of land are out of date. Where a 5 year supply of housing land cannot be demonstrated the presumption will tilt the balance towards the approval of planning permission. However, the proposed changes also address the concern that developers have used the presumption to promote low quality, unsustainable development through adding an explicit

reference to the need to consider locational and design policies, as well as policies for the delivery of affordable housing;

- reinstating the requirement for Councils to demonstrate a 5 year deliverable supply of new homes, regardless of local plan status;
- reintroducing the requirement for a 5% buffer to be added on top of 5 year housing supply calculations;
- making the 'standard method' mandatory for calculating district housing requirements (rather than it being an advisory starting point and allowing alternative approaches in exceptional circumstances);
- making clear the benefits of mixed tenure sites and also the need for local planning policies to set out the minimum proportion of social rent homes required.

2.6 The Government's consultation proposals also include changes to the 'standard method' itself, with housing requirements being calculated using a housing stock based approach (rather than population forecasts), and with an adjustment for local affordability. These changes, if brought into effect, will result in a significant increase to the district's annual housing requirement and have implications for plan making in Mid Devon. This matter is discussed in section 3 to this report.

2.7 The Government's consultation proposals do not change current national planning policy for local planning authorities to give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings. Members are reminded that energy efficiency standards are set through the national Building Regulations. However, there exists an opportunity for the Council to set higher standards through the preparation of the new local plan and where this can be supported through technical evidence and is justified.

Economy and Assets

2.8 The Corporate Plan seeks to grow the district's economy and increase returns from the Council's assets. This includes the regeneration of town centres, supporting business and economic development across Mid Devon, and securing investment in major transport infrastructure. The Government's consultation proposals place significant weight on the importance of facilitating new, expanded or upgraded public service infrastructure and introduce a 'vision-led' approach to transport planning rather than 'predict and provide'. These also place emphasis on seeking appropriate sites for commercial development which meet the needs of a modern economy, including uses such as laboratories, gigafactories, data centres, digital infrastructure, freight and logistics. This particular emphasis is a matter that will need to be weighed up through the review of the Council's economic strategy and also through the preparation of the new local plan.

3.0 New Local Plan (Plan Mid Devon)

- 3.1 The Government’s consultation proposals do not alter the legal requirement for local plans to be reviewed at least every five years, and for plans to be updated as necessary. The consultation makes clear that local planning authorities should continue to progress their plans to adoption under the existing system and without delay. Of particular note is that the deadline for submitting local plans for examination under the existing 2004 Act has been moved from June 2025 to December 2026. The Government is intent on implementing a new plan-making system as set out in the Levelling-up and Regeneration Act from the summer or autumn 2025. Its proposals include transitional arrangements for meeting the requirements of an amended NPPF. These transitional arrangements are of most relevance to plans that are at advanced stages of production (i.e. plans at examination now, and plans that have reached Regulation 19 publication stage but not yet been submitted for examination). Where plans are at earlier stages of preparation they should be prepared against a revised version of the NPPF and progressed as quickly as possible. This will be the case for the preparation of ‘Plan Mid Devon’.

Local Development Scheme and plan making timetable

- 3.2 The current timetable for the preparation of the new local plan for Mid Devon is included the published Local Development Scheme that was approved by the Cabinet on 4th July 2023 (minute 17) and this is reproduced in Table 1.

Table 1 Local Development Scheme approved July 2023

Stage	Date
Regulation 18 Issues Consultation	January – March 2022 (completed)
Regulation 18 Draft Policies and Site Options*	November 2024 – January 2025
Regulation 19 Publication (Draft Plan) consultation	December 2025 – February 2026
Submission	April 2026 [#]
Examination and main modifications	April 2026 – March 2027
Adoption	April 2027

* There is no formal requirement to do this, but the stage will provide for enhanced public engagement and an opportunity to resolve objections to the emerging local plan before it reaches its draft plan stage

Once the local plan is submitted the timetable will be subject to how the Planning Inspectorate progresses the examination

- 3.3 Since the Local Development Scheme was approved, substantive progress has been made in completing technical studies and evidence, formulating emerging draft policies for a number of themes (including responding to the climate emergency, new homes, business and jobs) and initial consideration of some potential site options to meet the assessed development needs for the district. This has involved a number of meetings with the Planning Policy Advisory Group, which are ongoing, and which are open for all Members to

attend. However, progress has been impacted through unforeseen and competing work pressures and priorities from late 2023 and through 2024.

- 3.4 The Local Development Scheme indicates that a Regulation 18 Draft Policies and Site Options report will be published and subject to consultation in the period November 2024 to January 2025. However, this is no longer feasible and will need to be revisited in light of progress made in preparing the new local plan and also with consideration of potential implications from the Government's proposed changes to the NPPF and other changes to the planning system, particularly in relation to planning for new homes. Additionally there remains a significant volume of further technical work that is necessary to inform the new local plan, including transport and other infrastructure studies, viability and sustainability appraisals. It is intended that approval for a new Local Development Scheme will be sought from the Planning, Environment and Sustainability PDG and Cabinet in early 2025 once the new NPPF has been published.

Standard method and the district housing requirement

- 3.5 Should the Government's proposed amendments to the 'standard method' for calculating housing need be introduced, this will result in a significant uplift in annual housing requirement for Mid Devon from the current 346 homes to 571 homes per year. This would represent an increase of about 4,500 new homes that will need to be planned for over a 20 year period for the new local plan. While officers are currently completing technical work for the Housing and Economic Land Availability Assessment, it remains uncertain whether there would be a sufficient number of assessed potential sites that would be capable of meeting this increased housing requirement for the district. It is therefore likely that further technical work could be needed to inform draft site options for the purpose of the Draft Policies and Site Options consultation (potentially a further 'call for sites' and associated assessments) and this will impact on the plan-making timetable.

Joint strategic planning

- 3.6 The Levelling-up and Regeneration Act 2023 will revoke the Duty to Cooperate in relation to the reformed plan making system. However the Duty remains a legal requirement under the current local plans system and will continue to apply to local plans progressed within the current system.
- 3.7 The Government's consultation proposals make clear that it intends to introduce effective new mechanisms for cross-boundary strategic planning. This will play a pivotal role in delivering sustainable growth and addressing key spatial issues, including meeting housing needs, delivering strategic infrastructure, growing the economy and improving climate resilience. The Government will take the steps necessary to enable universal coverage of strategic planning in this Parliament, which will be formalised in legislation. This will include exploring effective arrangements for developing Spatial Development Strategies outside of elected mayoral areas and encouraging

partnership working. The proposals will include amending the 'maintaining effective co-operation' section of the NPPF to ensure that the right engagement is occurring on the sharing of unmet housing need and other strategic issues where plans are being progressed.

- 3.8 Whilst the details for these proposals are not yet known, Members are reminded the Council already has a proactive and supportive approach to strategic planning and continues to work closely with Exeter City Council, Teignbridge and East Devon District Councils in relation to cross border planning and infrastructure matters. This has included the recent preparation of a non-statutory Joint Strategy for the four local authority areas, which is published on the Council's website here: [Joint Strategy 'Our Shared Coordinates' - MIDDEVON.GOV.UK](https://www.middevon.gov.uk/joint-strategy-our-shared-coordinates) .

4.0 Conclusions

- 4.1 This report has drawn attention to some of the key implications arising from the Government's consultation on proposed reforms to the National Planning Policy Framework and other changes to the planning system in relation to the Council's Corporate Plan and the preparation of a new local plan for the district. However, Members are also advised to refer the consultation proposals in full, which include proposed improvements to the existing system of developer contributions, changes to planning application fees and cost recovery, and other matters, and are published on the Government's website: [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](https://www.gov.uk/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system) , and also refer to the Council's submitted responses to these proposals in **Appendix 1** to this report.
- 4.2 The Government's proposed reforms to the National Planning Policy Framework and other changes to the planning system, if brought into effect, will have implications for the preparation of the new local plan in terms of its content, work programme and timetable. However, the Government has made clear that local planning authorities should continue to progress their plans to adoption under the existing system and without delay. There will be a need to revisit the timetable for preparing the new local plan in early 2025 once the revised NPPF has been published and implications of amended national planning policy have been fully assessed. A further review of the local plan timetable and work programme may subsequently become necessary once the details for introducing a reformed plan making process are known and the implications of these reforms have been fully assessed.

Financial Implications

There are no direct financial implications arising from this report.

Legal Implications

No direct legal implications arise from this report.

Risk Assessment

No specific risks are considered to arise from this report.

Impact on Climate Change

There are no direct impacts on climate change arising from this report.

Equalities Impact Assessment

Not applicable.

Relationship to Corporate Plan

This report draws attention to the relationship of some of the Government's proposed reforms to the National Planning Policy Framework and other changes to the planning system, with the objectives of the Council's Corporate Plan 2024 – 2028.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 12 November 2024

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 12 November 2024

Chief Officer: Stephen Walford

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 12 November 2024

Performance and risk: Steve Carr

Date: 28 October 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Richard Marsh, Director of Place and Economy. rmarsh@middevon.gov.uk

Background information

[Change Labour Party Manifesto 2024](#)

[Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](#)

HM Treasury Autumn Budget 2024 Fixing the foundations to deliver change (October 2024)

[Autumn Budget 2024 – HC 295](#)

Cabinet meeting 17th September 2024

[Public reports pack 17092024 1715 Cabinet.pdf](#)

[Revised NPPF may be delayed until the new year, says minister | Planning Resource](#)

[corporate-plan-2024-2028.pdf \(middevon.gov.uk\)](#)

[Local Development Scheme - MIDDEVON.GOV.UK](#)

Planning Newsletter 13th September 2024

[Planning update newsletter \(13 September 2024\) \(publishing.service.gov.uk\)](#)

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Mid Devon District Council

Consultation Response: Proposed Reforms to the National Planning Policy Framework and other changes to the planning system

September 2024

Question 1: Do you agree that we should reverse the December 2023 changes made to paragraph 61?

The proposed changes to paragraph 61 are supported.

Question 2: Do you agree that we should remove reference to the use of alternative approaches to assessing housing need in paragraph 61 and the glossary of the NPPF?

Yes, the proposed changes remove current uncertainties around alternative methodologies and when such approaches might be appropriate. Universal application of a standard method for assessing need provides consistency and clarity to all local authorities, developers and communities.

The Council notes that local authorities would be able to justify a lower housing requirement than the figure the method sets on the basis of local constraints on land and delivery, such as existing National Park and National Landscape, protected habitats and flood risk areas, but would (as now) have to evidence and justify their approach through local plan consultation and examination. The Council proposes that an amended standard method formula should include a deduction for the number of vacant and second homes, and also homes that are in a holiday use in a local authority area, since these have potential to be brought back into full time residential use to meet current and future local housing need and should reduce the requirement for additional homes to be provided through the planning process more cost effectively and with a smaller climate impact. The NPPF and Use Classes Order should be amended to introduce a distinction between 'primary' and 'secondary' residence functions and require planning permission for a change of use from primary to secondary use.

Question 3: Do you agree that we should reverse the December 2023 changes made on the urban uplift by deleting paragraph 62?

Yes, it is agreed that the current paragraph 62 provides a poor basis for directing housing growth to larger urban areas. The Council would welcome clarity on the Government's proposals to strengthen the existing Duty to Cooperate and

mechanism for cross-boundary strategic planning at the earliest possible opportunity to help facilitate timely plan-making and reduce uncertainty in the process going forward.

Question 4: Do you agree that we should reverse the December 2023 changes made on character and density and delete paragraph 130?

Yes.

Question 5: Do you agree that the focus of design codes should move towards supporting spatial visions in local plans and areas that provide the greatest opportunities for change such as greater density, in particular the development of large new communities?

Yes. Greater clarity on how this can be achieved is welcomed. However, the NPPF should make clear that achieving higher density should not be at the expense of public open space and private amenity space for new dwellings.

Question 6: Do you agree that the presumption in favour of sustainable development should be amended as proposed?

The changes to paragraph 11 are supported and it is recognised that there is a need for a policy mechanism to facilitate development where policies for the supply of land become out of date. The Council concurs with the concerns raised that some developers have used the presumption to promote low quality, unsustainable development and welcomes the additional clarity provided in the revised NPPF to make clear that it cannot offer a route to creating poor quality places. However, paragraph 11 should go further and make clear that planning permission will also not be granted where the development would not provide infrastructure that is necessary to support it or meet other policy requirements, including affordable housing.

The NPPF should go further in its explanation of sustainable development to identify what matters can be relevant to understanding the sustainability of a development and which would be material to the determinations of planning applications e.g. impact on climate (energy efficiency and design), availability of water supply and impact on water quality, and local economic and social impacts.

With the expected increase in house building, it becomes even more vital that new homes are Net Zero ready, or Net Zero in energy performance. An earlier change in the building regulations towards the Future Homes Standard could be considered to ensure higher energy performance standards.

Weight might also be given to the need to promote sustainable food systems, for food security and resilience, and for food-growing spaces such as horticulture close to urban areas.

The NPPF should also make clear the need to weigh up the release of land for development with the loss of that land for biodiversity and loss of carbon storage.

Question 7: Do you agree that all local planning authorities should be required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes, regardless of plan status?

No. Paragraph 76 should remain as it is currently worded to support the plan-led system. LPAs should not be required to continually demonstrate a 5 year supply where the local plan for its area is less than 5 years old. The robustness of the local plan's provision for 5-year supply will be tested through the examination process, and if delivery is not being achieved in the way that was expected then this will become evident through the Housing Delivery Test results and there are existing provisions for the preparation of action plans where delivery falls below targets. Local Plans are a very significant investment in time and money for their production (costs typically exceeding £800k (excluding staffing)) and they provide certainty to local communities about where development is planned and which areas are protected. The proposed changes to the NPPF could be a disincentive for preparing local plans and will undermine public trust in the planning process.

In the short term, it is recognised that 5-year land supply will need to continue to play a part in helping to significantly boost the supply of land for housing. However, it is unlikely on its own to achieve the desired results. Research demonstrates¹ that the accounting processes for a 5 year housing land supply in England normalises land speculation as the condition for housebuilding whilst instituting perverse incentives for landowner and developers to reduce the supply of new homes. Clearly, local planning authorities have little genuine influence over the pace at which any given

¹ Bradley, Q (2020) The financialisation of housing land supply in England. Available from: The financialisation of housing land supply in England - Quintin Bradley, 2021 (sagepub.com)

development is built out, beyond a grant of planning permission and timely discharge of conditions. There are currently over 2000 new homes with planning permission in Mid Devon where construction has not yet started. Additional mechanisms to incentivise timely build out of development by developers will need to be considered and implemented by Government at the earliest possible opportunity, whilst at the same time, safeguarding a plan-led system. These measures should help avoid where developers choose to delay the implementation of consented sites, and where developers purposefully restrict the supply of new homes coming onto the market to keep house prices inflated and protect their profit margins.

Evidence demonstrates that the total quantum of homes built by private developers is unlikely to materially increase to achieve the Government’s housing delivery ambitions. The below graph demonstrates the output of private enterprise completions remaining largely fairly static since the 1950’s, averaging around 150,000 dwellings per annum. Irrespective of a significant land supply increase, the Government will need to implement reforms which seek to address barriers to local authority housebuilding and allow new Council house building, significant increases in housing association completions as well as maximising delivery from other sources including community led housing and custom and self-build.

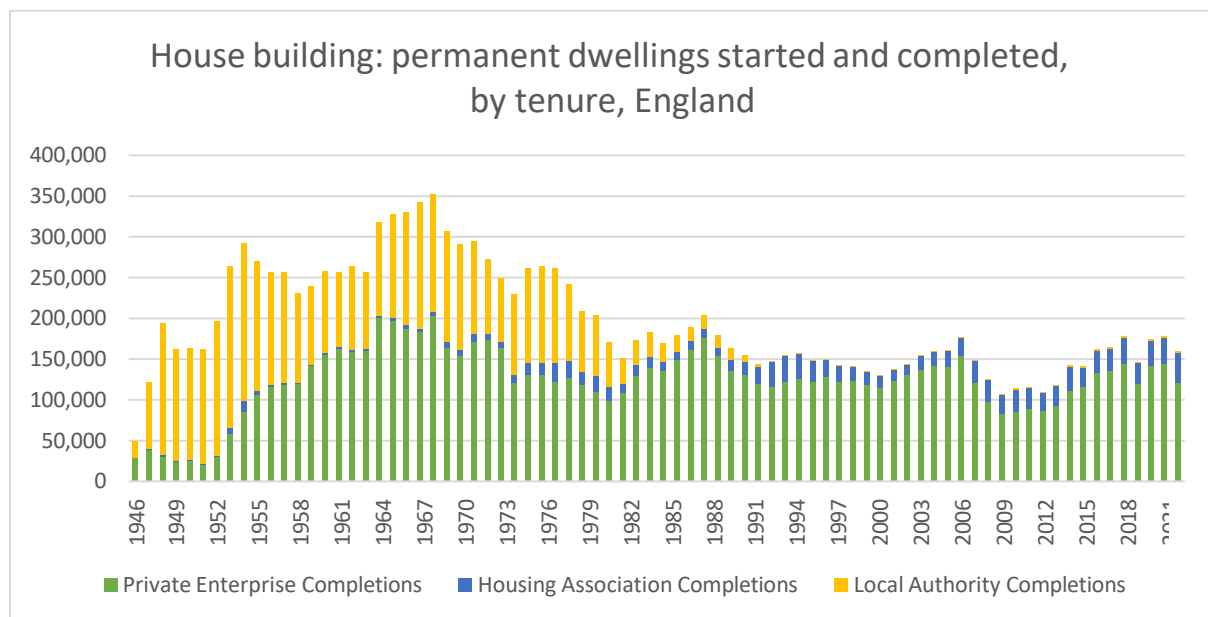


Figure 1: Housebuilding: Permanent dwellings started and completed, by tenure. Data source: MHCLG Table 244

Question 8: Do you agree with our proposal to remove wording on national planning guidance in paragraph 77 of the current NPPF?

No. Past delivery is taken into account in 5-year supply calculations and also in the Housing Delivery Test.

Question 9: Do you agree that all local planning authorities should be required to add a 5% buffer to their 5-year housing land supply calculations?

Yes, this will provide some headroom in the housing target. However, it will mean that sufficient additional sites will need to be identified to accommodate the buffer.

Question 10: If yes, do you agree that 5% is an appropriate buffer, or should it be a different figure?

Yes, 5% is an appropriate buffer.

Question 11: Do you agree with the removal of policy on Annual Position Statements?

Yes, it has been seldom used.

Question 12: Do you agree that the NPPF should be amended to further support effective co-operation on cross boundary and strategic planning matters?

Yes. However, if Spatial Development Strategies are required to be prepared across all areas this will place additional cost and resource burdens on LPAs and it is not clear how this work will be funded. The NPPF should also emphasize the need for strategic working by local authorities on Local Nature Recovery Strategies.

Question 13: Should the tests of soundness be amended to better assess the soundness of strategic scale plans or proposals?

No. It is considered that the current tests of soundness remain appropriate, which already include a clear reference to meeting the area's objectively assessed needs, informed by agreements with other authorities, so that unmet needs from neighbouring areas may be accommodated.

Question 14: Do you have any other suggestions relating to the proposals in this chapter?

Yes. Effective housing delivery should be a shared responsibility across the development industry and the NPPF should set out what is required of developers in terms of the commencement of new housing and publishing annual delivery trajectories for major housing schemes. The government should introduce measures to hold developers to account for the delivery of new homes through better and more transparent data and sharper tools to drive up delivery (e.g. taking into account the developers track record in delivery when considering whether to grant planning permission) and shortening the timescales for developers to implement a permission. Additionally, there will be a need to boost local authority capacity and capability to support housing delivery through plan making and decision taking on planning applications.

Question 15: Do you agree that Planning Practice Guidance should be amended to specify that the appropriate baseline for the standard method is housing stock rather than the latest household projections?

No. The problem with the proposed approach is that housing stock is not an accurate indicator of housing need. The proposed approach means that the more housing there is in a local authority area, then the more homes are needed. This fails to take into account; migration; where homes are vacant or are under occupied; where occupants will not generate future housing need; or where there will be household dissolutions.

Question 16: Do you agree that using the workplace-based median house price to median earnings ratio, averaged over the most recent 3 year period for which data is available to adjust the standard method's baseline, is appropriate?

Yes. This accords with the findings of the Competition and Markets Authority, and provides a more stable methodology and avoids too frequent changes, which increase uncertainty at the local level.

Question 17: Do you agree that affordability is given an appropriate weighting within the proposed standard method?

No. The proposed increase in the multiplier will result in uplifting the standard method housing requirement but will not help secure the delivery of more affordable homes. It is not currently clear how the Government has reached the affordability multiplier of 0.6, other than this being the adjustment required to reach the Government's stated housing delivery ambitions. The multiplier should be fully and robustly justified to ensure it reflects underlying local needs and affordability and should be independent of Government policy aspirations.

Question 18: Do you consider the standard method should factor in evidence on rental affordability? If so, do you have any suggestions for how this could be incorporated into the model?

Yes, as rental prices can be higher than house prices, and affect a significant proportion of people who are not home owners.

Question 19: Do you have any additional comments on the proposed method for assessing housing needs?

Yes. The results of the revised standard method show a significant uplift in the minimum number of homes the Council will need to plan for Mid Devon, increasing from 346 per annum to 571 per annum. This is a 65% increase, which will require substantial investment in new infrastructure which is unfunded. Part of the district is within the Blackdown Hills National Landscape, and parts are also affected by flood risk. There are also significant transport infrastructure constraints (road and rail),

capacity challenges with water and electricity supply, and current unfunded strategic improvements that are necessary to unlock the ability to plan major growth at key locations in the district. This includes a new railway station at Cullompton, funding additional rail services on the Tarka line and a strategic intervention at Junction 28 on the M5 that is necessary to support the proposed Culm Garden Village and circa 5000 new homes. There is a need for government intervention to facilitate the delivery of strategic infrastructure to support proposed major scale development and new communities e.g. garden villages. The proposed method will uplift the overall housing requirement for the district and increase the likelihood of needing to identify sites with greater infrastructure and other delivery challenges through the preparation of a new local plan. Funding for infrastructure needs to be identified sufficiently early in the development process, with greater certainty and confidence of delivery in a timely manner.

The text to the NPPF still includes reference to Areas of Outstanding Natural Beauty in paragraph 182, 183, 217 a) and in Annex 2 Glossary 'Designated rural areas'. These should be corrected to 'national landscapes'.

Question 20: Do you agree that we should make the proposed change set out in paragraph 124c, as a first step towards brownfield passports?

Yes. The proposed wording is supported. However, the consultation does not explain what is meant by a brownfield passport i.e. will this become another form of permission in principle and which could lead to poorly designed and unacceptable development.

Question 21: Do you agree with the proposed change to paragraph 154g of the current NPPF to better support the development of PDL in the Green Belt?

Yes. However, the NPPF should retain consideration of meeting an identified local housing need as justification for allowing development in the greenbelt.

Question 22: Do you have any views on expanding the definition of PDL, while ensuring that the development and maintenance of glasshouses for horticultural production is maintained?

The definition of PDL should not be expanded as for land to be 'developed' it will need to fall within the definition of development in the Town and Country Planning Act 1990. Horticulture is included within the definition of agriculture, which is not development. However, the NPPF should signal that LPAs should weigh up the merits of the development and re-use of land that has been despoiled (e.g. reuse of existing agricultural buildings). The NPPF should make clear that the reuse of existing agricultural buildings should not lead to the subsequent need to erect new buildings for agriculture, which can be of a larger scale, in inappropriate locations, and can impact on the landscape.

Glasshouses represent valuable horticultural infrastructure. The release of these horticultural sites would benefit landowners but could destroy the horticultural industry

and undermine local decision-making. Careful consideration should be given before replacing these sites with housing for several reasons:

1. Irreplaceability of Land: Once developed, it is unlikely that land will ever return to horticultural use. Sites for glasshouses were traditionally chosen for their advantageous climate, light, and soil quality, characteristics that are still relevant despite changing economic circumstances for horticulture.

2. Resilience of Domestic Supply: Climate change and global politics threaten our reliance on imports from countries like Spain, Morocco, and Israel. Water scarcity and extreme weather could disrupt production elsewhere, highlighting the need for the UK to bolster its domestic supply. Glasshouses in the UK's temperate climate are essential for extending the growing season and enhancing food security.

3. Embodied Energy and Resource Stewardship: Glasshouses contain significant embodied energy in materials like glass and aluminium. While existing technologies may seem outdated, refurbishing and reusing these structures may be more cost-effective and environmentally responsible than building anew, especially as we face increasing resource scarcity. A "hierarchy of need" should guide decisions about the future of glasshouse sites, factoring in their state of repair, soil quality, climate, light levels, and proximity to markets. The last fifty years of cheap energy have lessened the importance of these considerations due to easy transport, but rising energy costs and climate change will likely shift the economics back in favour of domestic production. Preserving and restoring glasshouse sites wherever possible is essential for a resilient and sustainable food system.

Question 23: Do you agree with our proposed definition of grey belt land? If not, what changes would you recommend?

No. This should also include reference to land that has been despoiled, but exclude land affected by minerals operations and which is subject to a requirement for restoration back to its former countryside. The NPPF could make clear where newly erected agricultural buildings should be demolished / removed once they become redundant to restore landscape character.

We would also be concerned about assigning 'grey belt' definition to land used for horticulture. As mentioned above, peri-urban farms, community gardens, allotments etc, some of which have been in use for decades, are a key part of peoples provisioning themselves with fruit and vegetables and serve needs for health, connection with nature and being part of a community.

These benefits have a financial value on top of the value of food that is produced. A study of allotments in Brighton and Hove demonstrated that soil on allotments stores 578 tonnes more carbon than grassland, supports 54 times more bees than other council land, reduces food packaging and waste and reduces health costs of the city council by preventing loneliness and improving mental health. The new definition for grey belt land should include wording to protect existing peri-urban farms, community gardens and allotments and provision should be made to ensure that more land is

made available for urban and peri-urban food production within easy walking or cycling distance of built up areas.

Question 24: Are any additional measures needed to ensure that high performing Green Belt land is not degraded to meet grey belt criteria?

Yes, include provision for a baseline date for determining the status of land, to avoid deliberate despoiling of greenbelt land as a pre-cursor to seeking its development. We would support clarity in the NPPF that land deliberately left vacant to deteriorate or is despoiled would not be released for development.

Question 25: Do you agree that additional guidance to assist in identifying land which makes a limited contribution of Green Belt purposes would be helpful? If so, is this best contained in the NPPF itself or in planning practice guidance?

No comment.

Question 26: Do you have any views on whether our proposed guidance sets out appropriate considerations for determining whether land makes a limited contribution to Green Belt purposes?

No comment.

Question 27: Do you have any views on the role that Local Nature Recovery Strategies could play in identifying areas of Green Belt which can be enhanced?

No comment.

Question 28: Do you agree that our proposals support the release of land in the right places, with previously developed and grey belt land identified first, while allowing local planning authorities to prioritise the most sustainable development locations?

No comment.

Question 29: Do you agree with our proposal to make clear that the release of land should not fundamentally undermine the function of the Green Belt across the area of the plan as a whole?

No comment.

Question 30: Do you agree with our approach to allowing development on Green Belt land through decision making? If not, what changes would you recommend?

No comment.

Question 31: Do you have any comments on our proposals to allow the release of grey belt land to meet commercial and other development needs through plan-making and decision-making, including the triggers for release?

No comment.

Question 32: Do you have views on whether the approach to the release of Green Belt through plan and decision-making should apply to traveller sites, including the sequential test for land release and the definition of PDL?

Yes, but where traveller's sites are permitted in such locations they should be restored to their former countryside once the use as a travellers site has ceased and there is no need for their continued use as traveller's sites.

Question 33: Do you have views on how the assessment of need for traveller sites should be approached, in order to determine whether a local planning authority should undertake a Green Belt review?

No comment.

Question 34: Do you agree with our proposed approach to the affordable housing tenure mix?

No comment.

Question 35: Should the 50 per cent target apply to all Green Belt areas (including previously developed land in the Green Belt), or should the Government or local planning authorities be able to set lower targets in low land value areas?

No comment.

Question 36: Do you agree with the proposed approach to securing benefits for nature and public access to green space where Green Belt release occurs?

No comment.

Question 37: Do you agree that Government should set indicative benchmark land values for land released from or developed in the Green Belt, to inform local planning authority policy development?

No comment.

Question 38: How and at what level should Government set benchmark land values?

The NPPF should provide for the Government to also set benchmark land values

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elsewhere in England outside greenbelts to inform viability considerations in relation to proposals for new housing and other uses.

Question 39: To support the delivery of the golden rules, the Government is exploring a reduction in the scope of viability negotiation by setting out that such negotiation should not occur when land will transact above the benchmark land value. Do you have any views on this approach?

No comment.

Question 40: It is proposed that where development is policy compliant, additional contributions for affordable housing should not be sought. Do you have any views on this approach?

No comment.

Question 41: Do you agree that where viability negotiations do occur, and contributions below the level set in policy are agreed, development should be subject to late-stage viability reviews, to assess whether further contributions are required? What support would local planning authorities require to use these effectively?

No comment.

Question 42: Do you have a view on how golden rules might apply to non-residential development, including commercial development, travellers sites and types of development already considered 'not inappropriate' in the Green Belt?

No comment.

Question 43: Do you have a view on whether the golden rules should apply only to 'new' Green Belt release, which occurs following these changes to the NPPF? Are there other transitional arrangements we should consider, including, for example, draft plans at the regulation 19 stage?

No comment.

Question 44: Do you have any comments on the proposed wording for the NPPF (Annex 4)?

No comment.

Question 45: Do you have any comments on the proposed approach set out in paragraphs 31 and 32?

Question 46: Do you have any other suggestions relating to the proposals in this chapter?

No comment.

Question 47: Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

Yes. Social rent is a vital part of housing options to meet housing need in the community, for those households who cannot afford to purchase their own home or who cannot afford to rent at market values or at a discounted affordable value. This is particularly the case in rural districts with comparatively low wage economies. Local Housing Needs Assessments for Mid Devon already include assessment of need for social rented accommodation. Where developers leave land undeveloped, this should be made available to Councils for the delivery of social rent housing.

Question 48: Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

Yes. This will provide more flexibility to look at other housing tenure options through the preparation of local plans, and these tenure options should be guided by technical evidence including local housing needs assessments and other material considerations.

Question 49: Do you agree with removing the minimum 25% First Homes requirement?

Yes. This will provide more flexibility to look at other housing tenure options through the preparation of local plans.

Question 50: Do you have any other comments on retaining the option to deliver First Homes, including through exception sites?

No.

Question 51: Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

Yes. The inclusion of this in national planning policy can help support policies in local plans that require a mix of tenures and types. Type, mix and tenure should reflect what is required locally based on evidence. The Council is aware of significant demand for bungalow development but the market is not currently delivering this type of accommodation.

Question 52: What would be the most appropriate way to promote high percentage Social Rent/affordable housing developments?

This can be guided through the findings of Local Housing Need Assessments, and balanced through viability appraisal to make sure the percentage set does not make

a housing scheme undeliverable. The percentage of social rent / affordable housing will also need to be balanced with other considerations, such as the need for open space, education, transport and infrastructure necessary to make the development acceptable in planning terms.

Question 53: What safeguards would be required to ensure that there are not unintended consequences? For example, is there a maximum site size where development of this nature is appropriate?

A flexible approach should be taken in terms of the size of a high percentage Social Rent / affordable housing schemes, to avoid constraining potential opportunities, subject to meeting other policies of a local plan.

Question 54: What measures should we consider to better support and increase rural affordable housing?

Provide further funding to local authorities through replenishing the Community Housing Fund, to help local authorities support community led housing development. Whilst the Council has made funding available to local community groups to help bring forward schemes in their areas, the Community Housing Fund the Council holds will soon be fully committed. If further funding were to become available, this would allow local authorities to build upon previous successes and work with local communities to deliver greater numbers of high quality, affordable, community led homes. Further funding would assist in helping alternative models such as community led housing to become part of the mainstream solution to addressing the housing crisis. A more diverse housing market means providing more housing of varying types, designs and tenures and meaningfully addressing housing affordability. At the local level, greater uptake of community-led housing would result in new homes that can target specific local housing needs thereby helping to empower local communities. They can be constructed to high environmental standards, and support local economic growth through providing training and employment opportunities as well as supporting SME builders and local tradespeople.

The cost of rents and mortgages is also a prominent brake on new entrants to small scale farming and food production, many of whom are unable to afford the high cost of rural housing. Many of these food growing enterprises (particularly agroecological enterprises) have environmental land practices at their heart. Formal inclusion of a One Planet Development Policy would allow for Low Impact Self Build homes to accommodate rural agricultural workers, many of whom would not meet, the minimum wage conditions considered essential by many LPA's. The minimum wage levels have been set to cover housing costs which, under self-build scenarios, would not apply in this case. Such policies have been successfully implemented in Wales and some English counties e.g. Dorset.

Question 55: Do you agree with the changes proposed to paragraph 63 of the existing NPPF?

Yes. However, a clearer definition of 'looked after children' is needed (i.e. does this
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also include young adults).

Question 56: Do you agree with these changes?

Yes, these changes can help support community-led housing.

Question 57: Do you have views on whether the definition of ‘affordable housing for rent’ in the Framework glossary should be amended? If so, what changes would you recommend?

No comments.

Question 58: Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

Insufficient numbers of small sites may be being allocated owing to infrastructure and viability challenges associated with delivery.

The small site policy could be strengthened by placing a requirement for large-scale sites to include provision for a proportion to be in the form of small-scale developments, to target delivery via SME builders, although with measures in place to avoid meeting policy requirements in full e.g. the provision of affordable housing.

Question 59: Do you agree with the proposals to retain references to well-designed buildings and places, but remove references to ‘beauty’ and ‘beautiful’ and to amend paragraph 138 of the existing Framework?

Yes. The term ‘beauty’ is subjective and open to interpretation, with potential to frustrate the determination of planning proposals. We welcome the retention of “well-designed” and would support the addition of “high quality”.

Question 60: Do you agree with proposed changes to policy for upwards extensions?

Yes. The Council welcomes the proposed amendments to ensure the same level of support for other forms of upward extension that the Government has for mansard roofs.

Question 61: Do you have any other suggestions relating to the proposals in this chapter?

No.

Question 62: Do you agree with the changes proposed to paragraphs 86 b) and 87 of the existing NPPF?

Yes. This should also include reference to renewable energy infrastructure.

Question 63: Are there other sectors you think need particular support via these changes? What are they and why?

Farming (where this requires forms of development) and food production should be given more support through the NPPF as these are important to the food security of the nation, and are also important to supporting prosperous rural economies.

Question 64: Would you support the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the NSIP consenting regime?

The potential impacts of such development on public health should be fully considered and also impacts on biodiversity should be fully assessed.

Question 65: If the direction power is extended to these developments, should it be limited by scale, and what would be an appropriate scale if so?

No comments.

Question 66: Do you have any other suggestions relating to the proposals in this chapter?

No.

Question 67: Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

Yes. But this should go further to identify other public service infrastructure, including infrastructure to support police, fire and rescue services, all forms of healthcare and social care infrastructure. This will help make sure the impacts of planned development on those services can be mitigated.

Question 68: Do you agree with the changes proposed to paragraph 99 of the existing NPPF?

Yes, as this makes clear that supporting education needs goes beyond just 'schools' (11- 16 years).

Question 69: Do you agree with the changes proposed to paragraphs 114 and 115 of the existing NPPF?

Yes. However, it is recognised that a "vision led" approach can still require significant infrastructure improvement in order to ensure the vision can be delivered.

Question 70: How could national planning policy better support local authorities in (a) promoting healthy communities and (b) tackling childhood

obesity?

It could be more specific through requiring major residential and mixed-use development to include opportunities that support growing food locally. Currently the references to a good food environment are scattered through national policy, and it would be helpful to have these brought into one place in the NPPF to raise the prominence of this matter and to avoid its importance becoming diluted.

The NPPF could also set a minimum distance threshold for the location of hot food takeaways away from schools. The NPPF should also recognise the value of high quality environments to support health and wellbeing (e.g. formal and informal exercise) and opportunities for social interaction and community cohesion (e.g. youth clubs). The NPPF could further support healthy communities and reduce childhood obesity (as well as reduce traffic and air pollution) by including support for sustainable transport and active travel initiatives - such as making use of redundant railway lines for walking and cycling.

The NPPF should be more explicit in promoting public health and well-being through the planning process, including mental and physical disability.

Question 71: Do you have any other suggestions relating to the proposals in this chapter?

The revised National Planning Policy Framework should clearly establish the principles of accessible neighbourhoods / compact cities / 15-minute neighbourhoods. This concept describes a place that is likely to be a healthy community. Assessment tools such as Scotland's "Place Standard" would help planners and developers understand how a neighbourhood works. It identifies the assets of a place, as well as areas where a place could improve. The Use Class Order was amended in 2020, introducing a new Class F - Local Community and Learning. National policy should draw attention to this opportunity to ensure convenience shops are provided within 1 kilometre of major new residential development and are protected through this classification (F2(a) Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 square metres and there is no other such facility within 1000 metres). This would benefit both rural and suburban residents

Question 72: Do you agree that large onshore wind projects should be reintegrated into the s NSIP regime?

Yes.

Question 73: Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

Yes. The NPPF should include specific reference to the support of community energy schemes.

Question 74: Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

Yes. It is unclear what compensatory measures would be for the loss of peat, since this resource cannot be replaced.

Question 75: Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

Yes. This will allow more onshore wind projects to be determined by local planning authorities and a potential quicker route for determining such schemes. The NPPF is currently lacking reference to the need for means to store surplus electricity generated to put back into the grid at peak demand e.g. battery storage, and it could include policy to enable local planning authorities to be more proactive in identifying suitable locations for this

Question 76: Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

Yes. This will allow more solar projects to be determined by the local planning authority and a potential quicker route for determining such schemes.

Question 77: If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

No comments.

Question 78: In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

Many local authorities have declared a climate emergency, recognising that urgent action is needed to address the impacts of climate change and to move towards a net zero carbon economy as soon as possible. However, climate / carbon considerations can lack the profile and attention needed in the development management process, where this may be overshadowed by other planning considerations. There is a need for national planning policy to take a lead on this through including a requirement for planning applications to be supported by information that is proportionate to the scale and kind of development proposed to demonstrate how proposals will mitigate their impacts on and adapt to climate change, and minimise emissions of carbon and other greenhouse gases. This will help achieve greater transparency how climate impacts are being considered through the planning process. It will be for local planning authorities to set out what type of information is expected to support planning applications. Mid Devon District Council has introduced a scheme for this through its local validation criteria for planning applications that are submitted for determination: [Non-Statutory Interim](#)

The NPPF should make clear that tackling climate change is a material consideration to the planning process, to which significant weight should be attached. It should establish a presumption against granting planning permission for high greenhouse gas developments. The NPPF should cross refer to Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 (as amended) which includes a requirement for development plan documents to include policies designed to ensure that development and land use contribute to the mitigation of, and adaption to, climate change.

The NPPF should make clear the prevention and avoidance of impact of development on climate change should come before mitigation e.g. through reducing carbon footprint and also through increasing biodiversity.

In addition to flooding, the NPPF should address other consequences of climate change arising from extreme weather events, where a planning response may be necessary e.g. temperature increases and voracious wind.

Question 79: What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

There should be a national net zero carbon toolkit and net zero housing assessment tool, that can applied by all local planning authorities, supported by suitably ambitious building regulations. These should address design considerations such as orientation of buildings as well as whole life cycle carbon impacts associated with development. This would put in place a consistent approach and avoid duplication and unnecessary costs incurred by local planning authorities seeking to develop their own approaches.

Question 80: Are any changes needed to policy for managing flood risk to improve its effectiveness?

The policy should be sufficiently flexible to facilitate the delivery of innovative flood mitigations in the design of new building. For example, the Council's Zedpods development at Shapland Place, Tiverton. The NPPF could also incentivise green roofs and use of SUDs to increase infiltration in all new housing developments.

Question 81: Do you have any other comments on actions that can be taken through planning to address climate change?

The NPPF should make clear the scope of how local planning authorities can set local energy efficiency standards in local plans that go beyond the building regulations. Currently this is set out in the December 2023 ministerial statement, but may be subject to an appeal against the High Court's rejection of a claim over the unlawfulness of the ministerial statement. National guidance on reconciling climate standards, viability implications and historic buildings would also be welcome.

Question 82: Do you agree with removal of this text from the footnote?

Yes. The correct approach should be that the availability of agricultural land should not be considered since it is unclear how 'availability' would be measured and tested.

Question 83: Are there other ways in which we can ensure that development supports and does not compromise food production?

The NPPF should require major residential and mixed use development to facilitate opportunities that support growing food locally (e.g. including allotments, community orchards and forms of incidental planting within open spaces that generate fruit, nuts and other edible produce).

Question 84: Do you agree that we should improve the current water infrastructure provisions in the Planning Act 2008, and do you have specific suggestions for how best to do this?

No comments.

Question 85: Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?

The NPPF should place greater emphasis on forms of water capture and storage for new development to reduce demand on fresh water supply and more efficiently utilise existing infrastructure. It should also make clear the need for the planning process to take into consideration the management of waste water and sewerage capacity, and also the effective management and protection of water quality in rivers and the sea. The NPPF paragraph 180 i) should include reference to supporting the Catchment Based Approach from source to sea.

Question 86: Do you have any other suggestions relating to the proposals in this chapter?

The NPPF should set out where proportionate technical studies will be required for the provision of potable water supply, wastewater disposal, and maintaining and improving water quality in rivers, watercourses and the sea in relation to the planned levels of development through local plans.

Question 87: Do you agree that we should we replace the existing intervention policy criteria with the revised criteria set out in this consultation?

Yes, these allow the consideration of exceptional circumstances that may affect the ability of a local authority to do what is required to get their plan in place, or keep it up to date.

Question 88: Alternatively, would you support us withdrawing the criteria and relying on the existing legal tests to underpin future use of intervention powers?

Mid Devon District Council Consultation Response – Proposed reforms to the National Planning Policy Framework and other changes to the planning system – September 2024

No.

Question 89: Do you agree with the proposal to increase householder application fees to meet cost recovery?

Yes, and we would suggest this principle needs to be expanded to incorporate cost recovery of the planning service as a whole, including related enforcement activity, which is a key priority for communities.

Question 90: If no, do you support increasing the fee by a smaller amount (at a level less than full cost recovery) and if so, what should the fee increase be?

For example, a 50% increase to the householder fee would increase the application fee from £258 to £387.

If Yes, please explain in the text box what you consider an appropriate fee increase would be.

Question 91: If we proceed to increase householder fees to meet cost recovery, we have estimated that to meet cost-recovery, the householder application fee should be increased to £528. Do you agree with this estimate?

The Council does not know the exact amount proposed – but suggests that fees should be set locally on a full-cost recovery (and non-profit) basis. This would require LPAs to publish their fee regime, perhaps triennially, alongside planning service costs to show no profit being realised.

If No, please explain in the text box below and provide evidence to demonstrate what you consider the correct fee should be.

Question 92: Are there any applications for which the current fee is inadequate? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Councils should be provided with the ability to charge for services provided in relation to: repeated applications; where additional advice is sought from/by the applicant; and to recover costs associated with enforcement.

Question 93: Are there any application types for which fees are not currently charged but which should require a fee? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Consideration should be given to introducing a fee for standalone Listed Building Consent Applications (i.e. excluding those needing planning permission as well). The Council estimates that given most LBCs require an internal inspection of the property. It is also often the case that Conservation Officers need to consider highways, drainage, housing, disability grants, building control, archaeology etc

which means liaison with other departments therefore adding time and complexity which is comparable with planning officer considerations. In order to aid cost recovery, it is considered a fee of approximately £150 would be reasonable. If an LBC application is submitted jointly with planning permission, then the fee could be waived.

Local authorities should be provided with the ability to impose charges for breaches of planning condition and where development has taken place without planning permission to cover costs incurred through investigation and actions taken (e.g. where legal advice is sought).

Increased or additional fees should be applied to planning applications that are made retrospectively, to encourage applications seek planning permission before work is undertaken.

Question 94: Do you consider that each local planning authority should be able to set its own (non-profit making) planning application fee? Please give your reasons in the text box below.

Yes.

Question 95: What would be your preferred model for localisation of planning fees?

Full Localisation.

Please give your reasons in the text box below.

Question 96: Do you consider that planning fees should be increased, beyond cost recovery, for planning applications services, to fund wider planning services?

Planning fees should only be set at a level to cover planning services (including enforcement). They should not be used to subsidise other areas of council activity, but by the same token general council tax revenues should not have to support development/planning activity.

If yes, please explain what you consider an appropriate increase would be and whether this should apply to all applications or, for example, just applications for major development?

A fee could potentially be applied to land promotion activity i.e. where land is submitted to local authorities for consideration as part of the Housing and Economic Land Availability Assessment, which is used to help evidence the preparation of local plans, and which requires significant work by the local authority.

Question 97: What wider planning services, if any, other than planning applications (development management) services, do you consider could be paid for by planning fees?

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Planning fees for planning proposals for new dwellings should include monitoring of development, which is used to inform housing land supply calculations and decisions made on planning applications, and also enforcement. It is also important to ensure that fees cover the costs of other services such as building control.

More broader support for other services, including plan making, design, ecology, landscape and heritage, would be desirable, and local planning authorities should be able take these into consideration but avoiding significant additional increases in planning fees that would deter development coming forward.

Question 98: Do you consider that cost recovery for relevant services provided by local authorities in relation to applications for development consent orders under the Planning Act 2008, payable by applicants, should be introduced?

No comment.

Question 99: If yes, please explain any particular issues that the Government may want to consider, in particular which local planning authorities should be able to recover costs and the relevant services which they should be able to recover costs for, and whether host authorities should be able to waive fees where planning performance agreements are made.

No comment.

Question 100: What limitations, if any, should be set in regulations or through guidance in relation to local authorities' ability to recover costs?

No comment.

Question 101: Please provide any further information on the impacts of full or partial cost recovery are likely to be for local planning authorities and applicants. We would particularly welcome evidence of the costs associated with work undertaken by local authorities in relation to applications for development consent.

No comment.

Question 102: Do you have any other suggestions relating to the proposals in this chapter?

No comment.

Question 103: Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider?

No. The consultation proposals state that 'if the revised LHN figure is more than 200 dwellings per annum higher than the annual housing requirement set out in the

adopted version of the plan, the local planning authority will be required to begin preparation of a plan under the new system as soon as possible. This is at odds with the draft NPPF text which states ‘the emerging annual housing requirement in a local plan that reaches or has reached reg19 on or before the publication date + one month is no more than 200 dwellings below the published relevant LHN figure’. The consideration of whether a revised LHN figure is more than 200 dwellings higher than a plan requirement should be in relation to the new plan being prepared that is under examination (i.e. not the current adopted local plan).

Question 104: Do you agree with the proposed transitional arrangements?

No. The Government’s proposal to extend the deadline for submitting plans through the current system by 18 months (i.e. to December 2026) is welcomed. However, there is no transitional provision for those plans in preparation that are unable to be submitted by December 2026, to move to the new system. This could result in abortive work, or the need to re-do elements of plan-making (e.g. re-consult on regulation 18 stage issues, draft policies and site options and related sustainability appraisal) which have time and resource implications for local authorities and could frustrate local communities. Additionally it could also result in need to re-do elements of technical evidence, at significant cost to local authorities. There is a need for clarity from Government about the carry-over of work from the current system to the new system of plan making.

Question 105: Do you have any other suggestions relating to the proposals in this chapter?

Yes, there is a need to see what the national development management policies include as soon as possible to avoid potential repetition in local plans and abortive work. There is also a need to understand in more detail what is expected for digital plans and welcome guidance should the Government seek a standardised format, structure and content for local plans.

Question 106: Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

No comment.

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Report for: Scrutiny

Date of Meeting:	25 th November 2024
Subject:	Planning Enforcement Policy update
Cabinet Member:	Cllr Steven Keable, Cabinet Member for Planning and Economic Regeneration
Responsible Officer:	Heather Nesbitt, Senior Enforcement Officer
Exempt:	N/A
Wards Affected:	Relevant to all wards
Enclosures:	Revised Planning Enforcement Policy

Section 1 – Summary and Recommendation(s)

This report seeks to:

1. Discuss the reasons why an updated policy on Planning Enforcement is needed, and;
2. Present the updated Planning Enforcement Policy which incorporates amendments requested by the Planning Policy Advisory Group (PPAG) ahead of presentation to Cabinet for adoption.

Recommendation(s):

1. That Members note the report and the updated planning enforcement policy – including that PPAG have recommended the presentation of the updated planning enforcement policy to Cabinet for approval. And;
2. That Members note that delegated authority to the Development Management Manager, in conjunction with the Cabinet Member for Planning and Economic Regeneration, will be sought to make any future revisions to the Planning Enforcement Policy to ensure it accords with National Planning Policy.

Section 2 – Report

1. Introduction – background to Planning Enforcement Policy

- 1.0 Mid Devon’s Local Planning Enforcement Policy seeks to set out how Mid Devon will take responsibility for reported breaches of planning control within the District. It sets out how reported breaches will be categorised by means of priority, those being, high, medium and low, together with the timescales that can be expected with each in terms of acknowledgement, investigation and response time.
- 1.1 The policy was last reviewed in April 2018. Since then, as members will be aware, there have been a number of National and Local Policy together changes and legislative changes with a steady rise in reported planning breaches since the Covid pandemic.
- 1.2 Planning enforcement is an important part of planning activity and the planning system, however planning enforcement is governed by legislation, is discretionary and must be proportionate.
- 1.3 A high volume of planning breaches are reported, but the majority tend to be low impact/risk and, owing to the limited resource available, officers necessarily have to focus on the high risk/high impact cases where intervention is required to address serious breaches.
- 1.4 As planning enforcement is a discretionary service which is not chargeable, all authorities must necessarily take a ‘view’ in terms of how they resource their planning departments to accommodate enforcement activity. The approach varies significantly between councils with some councils having no-dedicated enforcement staff and other authorities, such as Mid Devon, having skilled staff dedicated to enforcement activity.
- 1.5 At Mid Devon, it has been considered appropriate and prudent to update the current Planning Enforcement Policy in order to provide clarity on officer approach when dealing with reported breaches. The aim of the policy is to set out clearly what will be investigated as a high priority, as well as make it clear that lower priority cases will not be investigated whilst other higher priority matters are being dealt with, unless there is planning officer capacity to do so.
- 1.6 The approach to enforcement is necessarily to prioritise high-risk and high impact breaches, understanding that the council is not equipped (financially or in terms of staff) to address every alleged breach.

2 Proposed Changes in detail

- 2.0 The new Planning Enforcement Policy brings the operations of the Enforcement Team in line with the Council’s current approach. Formal adoption and publication of the policy should make it easier for the public to understand Mid Devon’s approach to Planning Enforcement and will support the Council in enforcement activity.

- 2.1 The proposed Planning Enforcement Policy adopts a similar approach to that taken by other Councils including East Devon. The reason for this is that Officers consider it to be a robust policy and it was also considered to be a good template.
- 2.2 The proposed policy sets a much clearer framework for when enforcement action will be taken, and how it will be taken, together with clarity on what types of cases will be investigated as high priority, medium priority and low priority, accordingly.
- 2.3 It advises that a maximum of 7 working days is the response time for acknowledgement of complaints received and sets out step by step guidance on how the complaint will be managed and what to expect as an outcome. The updated policy is more comprehensive, reflects current guidance and legislation and will enable improved management of the enforcement caseload.
- 2.4 Options regarding enforcement action, explaining what is appropriate and when, together with some examples of what will and will not constitute a breach of planning have also been included within the policy.
- 2.5 The proposed document is simple in comparison with the current policy document, in an attempt to help a wider audience to understand how a case is investigated and what options are available to enforcement officers in terms of taking action as set out by National Policy. This includes specific guidance in relation to what are normally higher priority cases, such as protection of trees, and listed buildings.
- 2.6 The updated Planning Enforcement Policy has been appended to this report for ease of reading and reference.
- 3.0 **Next steps**
- 3.1 As set out above; the Council is seeking to implement this updated policy as soon as possible, in order that the public are better informed of how the Council will manage reported breaches of planning control.
- 3.2 The policy has gone before PPAG, incorporates changes recommended by PPAG and is now before Scrutiny to ensure that members have the ability to discuss the changes, and ask any questions, before the report and the policy proceed to Cabinet for approval to adopt.

Financial Implications

Planning enforcement is a discretionary and non-fee generating service. Ensuring that the Council's policy on enforcement is clear, understandable, and in line with National Planning Policy, is crucial in minimising the risk of enforcement appeals that could come forward with a cost implication to the Council as a result of unreasonable enforcement action.

Furthermore, the implementation of the updated policy into the Council's policies and procedures will help to ensure caseloads for officers are manageable. This is because the policy makes it clear what reported breaches of planning will be prioritised and those that will either take longer to be investigated, or will not be investigated until or unless capacity exists.

Legal Implications

Matters of enforcement are bound by strict data protection rules and the authority must be mindful of the rights of individuals concerned. This means that specific details and ongoing enforcement activity cannot be shared beyond those within the authority who are immediately and necessarily involved in cases.

Enforcement action must always be proportionate and, where appropriate, the LPA is encouraged to seek to resolve matters through dialogue and regularisation. The authority does not have 'carte blanche' in what it elects to do in relation to planning enforcement matters.

Nonetheless, enforcement is a necessary part of the planning system and so, in relation to severe planning breaches, the authority will seek to progress proactive enforcement.

Risk Assessment

Risk can arise through a lack of enforcement activity but the authority is seeking to mitigate this risk as explained within this report.

Risk can also accrue from unreasonable enforcement activity and a lack of general compliance on key issues such as data protection. The authority are also therefore seeking to minimise this risk by implementing the policy update which is considered to provide more clarity around what cases will be high priority and how enforcement action will be taken as appropriate. This subsequently assists in minimising risk of turnover of employed enforcement officers, given that their caseload should be more manageable.

Impact on Climate Change

Owing to the direct impact that planning has upon our built and natural environment, work in relation to planning enforcement can have an impact upon climate change,

biodiversity and the environment at large. Generally speaking, planning enforcement should always have a positive impact in these areas as it seeks to ensure compliance with planning matters and seeks to guard against illegal or improper development and use of land.

Equalities Impact Assessment

No equalities issues are expected to arise from this report.

Relationship to Corporate Plan

Proactive and proportionate planning enforcement will support the Council in achieving its corporate objectives.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 12 November 2024

Statutory Officer: Maria de Leburne
Agreed on behalf of the Monitoring Officer
Date: 12 November 2024

Chief Officer: Stephen Walford
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 12 November 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date:

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers Contact: Heather Nesbitt –
Senior Enforcement Officer
Email: hnesbitt@middevon.gov.uk

Background papers: None

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**Mid Devon District Council Planning Enforcement Policy
2024**

Contact details

Mid Devon District Council Website – ([Residents - MIDDEVON.GOV.UK](https://www.middevon.gov.uk))

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1. INTRODUCTION

The basis for the planning system is to protect amenity, whether it is the quality of the environment in general, or the quality of life of people living close to the development. For this reason Parliament has granted powers to Local Planning Authorities to ensure that action can be taken against unauthorised development or a breach of planning control which is causing harm to the amenity of the area as long as it is proportionate and expedient to do so.

Unauthorised development is generally:

- development that does not have planning permission;
- development that has permission but is not being carried out in accordance with the conditions of the permission.

Alleged breaches of planning control can be emotive issues and controversial by their very nature

The National Planning Policy Framework (NPPF) states the following, recommending that local planning authorities publish a local enforcement plan:

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”

This Local Enforcement Plan sets out Mid Devon District Council's priorities for investigation, explains what will be investigated and it outlines the Council's general discretionary powers with regard to planning enforcement. This document sets out the policy and procedures that the Council will adopt when investigating and, where applicable, remedying breaches of planning control.

This document sits below, and should be read in conjunction with, the Council's Regulatory Enforcement and Protection Policy which sets out the general principles the Council will follow in relation to investigations, enforcements and prosecutions as part of its regulatory functions. Further advice and guidance is also available within the National Planning Practice Guidance published by the Government.

Mid Devon District Council recognise that unauthorised development can have adverse consequences and, if unchecked, can undermine confidence in the planning system. The Council is, therefore, committed to the effective enforcement of planning control. It should be noted that any formal action taken should be proportionate and expedient in each case. Enforcement action is not a means of punishment but a way to regularise breaches of planning control when appropriate.

Planning enforcement investigations can be a complex and involved process with varying timescales. Equally, enforcement legislation is complex and formal action can only be taken in circumstances where it is legislated to do so. The aim of this strategy is to ensure the Planning Enforcement Service:

- Has a decision making process that is open, transparent and is seen to be fair and balanced;
- Seeks to work with the owner as far as possible to regularise the breach without the need for formal action;
- Provides an excellent service to those who live and work in and visit Mid Devon;
- Is accessible to all users, keeping all interested parties updated;
- Takes action, where appropriate, that is timely, proportionate and reasonable;

Achieves and maintains effective and efficient enforcement of planning control.

2. SERVICE AIMS

The Council's Service Aims with regard to Planning Enforcement are:

- To operate in accordance with the procedures outlined in this Plan and the overarching Regulatory Enforcement Policy published by the Council;
- To remedy harm caused by breaches of planning control in the interests of protecting and enhancing the built and natural environment of Mid Devon and the amenity of its residents and visitors;
- To strike a balance between protecting public safety, amenity and other important interests and enabling acceptable development to take place, even though it may initially have been unauthorised;
- To ensure that the policies and the credibility of the Council and the planning system is not undermined;
- To carry out all enforcement duties openly, fairly, helpfully, proportionately and consistently and to consider each case on its own facts and merits;
- To maintain the confidentiality of complainants unless they are asked to collect and submit evidence to help secure a prosecution in which case their identity and evidence will subsequently be made public;
- To investigate all reasonable complaints where complainant details are provided;
- Complaints will be prioritised according to their urgency and potential harm;
- Enforcement action will be taken where it is expedient to remedy harmful consequences and when it is in the wider public interest;

Ensure that any formal action is proportionate to the breach.

District Council's Corporate Objectives – Corporate Plan 2024 - 2028

The District Council has identified the following as its corporate aims;

- Planning, Environment & Sustainability – To be a leader and pioneer of best practice so new innovation and thinking is at the heart of the services we deliver and informs our planning policies.
- Community, People & Equalities – Involving and engaging with our communities, ensuring everyone is treated with equality and respect, and protecting our most vulnerable.
- Homes – Delivering new affordable and social homes annually, improving and maintaining the existing stock to the highest standards.
- Economy & Assets – Growing the district economy and increasing returns from our assets.
- Service Delivery & Continuous Improvement – Providing high quality and efficient services to support and improve the lives of people in Mid Devon.

Some types of development may present conflicts between these objectives and where this is the case a balance has to be achieved. It is the planning system as a whole which seeks to achieve a fair balance. The enforcement system is an important stage assisting with that process.

3. PLANNING ENFORCEMENT AND WHAT IS A BREACH OF CONTROL

Enforcement of planning law is complicated. This is because central government attempts to balance the rights of individuals to use or alter their property against the need to safeguard the character and quality of towns/villages the countryside, amenity of people and an area, and to uphold the planning policies of the district.

The planning enforcement system generally gives the benefit of the doubt to anyone undertaking the unauthorised development, and Council's are expected to give those responsible for undertaking unauthorised development an opportunity to correct matters before taking formal action.

If the Council's actions are considered too onerous or legally incorrect, it can be awarded costs against it and/or have its decisions overturned at appeal or by the courts. Maladministration can also be found against the Council by the Local Government Ombudsman if the Council fails to take effective enforcement action when it was plainly necessary, or takes action when it shouldn't. Such a decision can also lead to the payment of compensation by the Council to a complainant.

The Council's power to take enforcement action comes from Parliament under the Town and Country Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, the Planning and Compensation Act 1992, Town and Country Planning (Control of Advertisements) Regulations 2007, Anti-Social Behaviour Act 2007 and the Localism Act 2011. There are also powers in relation to the Community Infrastructure Levy under the Community Infrastructure Levy Regulations 2010 (as amended).

For a breach of planning control to have occurred, it must first be established that development requiring planning permission has taken place. Development is a legal term and generally means building works and/or some changes of use. Building works can include the construction of a building, excavations, extension, although small-scale

extensions to houses may not need planning permission. Changes of use can include a change from a shop or office to a dwelling, although some changes of use do not require planning permission.

Not all development requires planning permission and the main sources of guidance on this are:

- The Town and Country Planning (General Permitted Development) Order (as amended);
- The Town and Country Planning (Use Classes) Order (as amended); and
- The Town and Country Planning (Control of Advertisements) Regulations (as amended).

These documents, which can be viewed on the Government's website, detail instances where permission is not required. For example, certain structures do not need permission because of their size, height or location etc. This is called 'permitted development' and specific guidelines are given in the General Permitted Development Order (the GPDO). The Use Classes Order places most types of use into classes (e.g. retail, business, etc.) and, in general, permission is required to change from one class to another. The Control of Advertisements Regulations set out what forms of advertising do not require consent, known as "Deemed Consent" and what does, known as "Express Consent". Further information on this is also available at www.planningportal.co.uk

4. WHAT HAPPENS WHEN YOU REPORT A BREACH OF PLANNING CONTROL

Most investigations into breaches of planning control result from reports from the public, Councillor's, Parish Councils and Council departments including County Council but the Council will act pro-actively where a significant breach of planning control is apparent even if no report has been received. All investigations will follow the same general procedure as set out below. Reports can be made on-line, via the website, 'report a breach'.

The Planning Enforcement service will not normally take the lead in investigating possible breaches of planning control that occur on Council-owned land or on highway land. The appropriate Council service or the Highway Authority (Devon County Council) will have stronger powers to remedy such breaches.

When the report is received:

- When the breach report is received, it will be acknowledged within 7 working days and the person/s reporting provided with a case reference number.
- Due to the nature of investigations and keeping in line with GDPR (General Data Protection Regulation 2018) we are unable to update or discuss with person/s reporting a breach until the investigation reaches a conclusion or information is in the public domain.
- The identity of the person/s reporting the breach will be kept confidential, unless they are asked to collect and submit evidence to help secure a prosecution in which case their identity and evidence will subsequently be made public.
- Anonymous reports will not normally be investigated unless they allege serious breaches of planning control.

5. INVESTIGATION PRIORITIES

Reports will be initially prioritised upon receipt however, a case may be reprioritised during the investigation process. Reports will be categorized as follows:

High Priority – Requiring Immediate Investigation

- Development resulting in concerns for public health and safety which are controllable through planning legislation.
- Works of demolition, significant alteration or extension causing substantial harm to, or total loss of, a heritage asset.
- Works to protected trees or trees in a conservation area and important hedgerow's, where there is a likelihood of substantial harm.
- Demolition of important unlisted buildings/heritage assets in conservation areas.
- Development that may adversely affect or destroy a site of nature conservation value.
- Development that has a significant impact on the natural environment.
- Significant unauthorised building works/structures.
- Uses of land or buildings or activities that cause significant disruption by reason of noise, smell, fumes or other forms of nuisance.
- Development that will result in irreversible harm should it continue.
- Where immunity from enforcement action due to the passage of time will come into effect shortly.

Medium Priority – Investigation to commence as soon as practicable depending on the High priority Case Load

- Operational and building works not covered under high priority above.
- Changes of use resulting in harm to residential amenity or the immediate environment.
- Non-compliance with conditions/planning obligations resulting in harm to residential amenity or where there is less likelihood of substantial harm to significant trees and hedgerows.
- New build and other works within conservation areas not covered under high priority above.
- Untidy land – depending on severity
- Other works causing less than substantial, or no harm to the significance of a heritage asset.
-

Low Priority - will not be investigated while other urgent cases are under investigations

- Other changes of use.
- Other minor building works and structures e.g. garden sheds, walls, fences etc.
- Non-Compliance with other conditions.
- Advertisements.
- Satellite dishes.

6. WHAT HAPPENS DURING THE INVESTIGATION PROCESS

Initial action

The investigation will be carried out by a Planning Enforcement Officer, a Planning Officer or Tree Officer, as considered appropriate with regards to the type of breach alleged. A Planning Officer will have greater knowledge of the site and breach if it relates to a planning permission not built in accordance with plans or where a planning condition has not been complied with. A Tree Officer will have a greater knowledge of Tree Preservation Orders and hedgerow removals. In the case of Listed Buildings and Conservation Area investigations, the Planning Enforcement officer will work closely with the Listed Building and Conservation Planning officers.

Following receipt of a report, the matter will be screened to see if a breach of planning control may have occurred. This will be a desktop investigation to check, for example, planning history, other records and relevant legislation. If it is established at this stage that there is no breach the person/s reporting will be advised and no further action will be taken. Where appropriate, information will be passed to other departments or organisations for investigation e.g. Building Control, Devon County Council, and Environment Agency, Police, Fire Service etc.

Site Visit

If the initial screening indicates that there may be a breach, a site visit will be made. If the land and/or building(s) are occupied the enforcement officer may make an appointment with the owner/occupier. This is not always possible or advisable as it may alert them and enable them to temporarily remove or disguise the subject matter of the reported breach. In some cases 24 hours' notice may be legally required to enter certain properties.

In rare circumstances where access has been refused or likely to be refused, the Council may have to apply to the Courts for a Warrant of Entry.

At the site visit the officer will identify themselves and explain the reason for the visit. Proof of authorisation to enter land under the 1990 Planning Act will be provided if requested. The enforcement officer's role is simply to gather the facts of the case and they will not always be able to advise on the acceptability of the works and the potential to gain consent for any unauthorised works.

The officer will record a description of the site and the alleged breach of planning control, take any necessary measurements/photographs, obtain the identity of the owner/occupier/person responsible for the activity/operations taking place if possible and identify any neighbouring properties likely to be affected.

If a breach of planning control has clearly taken place the owner/occupier/person responsible will be informed straight away (if they are present). If the case is not clear cut then the Enforcement Officer may need to confer with colleagues or check the legislation before reaching a decision. In either case where a breach has occurred the owner/occupier/person responsible will be advised that if they carry on with the activity/development this will be entirely at their own risk and may be subject to enforcement action. The investigating officer will have regard to the provisions of Sections 66 and 67(9) of the Police and Criminal Evidence Act 1984 (PACE) in relation to cautioning suspected offenders for breaches that are of a criminal nature as set out in law for example unauthorised works to a Listed Building.

Following the site visit

If the owner/occupier/person responsible was not present or further investigations were required then they will be contacted and advised of the Council's intended action and options available to resolve the matter as soon as possible after the site visit.

If it was established at the site visit that there is no breach the person/s reporting the breach will be advised and no further action will be taken.

Further investigations

Further investigation may be necessary following the site visit to determine whether a breach has occurred and may involve:

- Monitoring the site to collect further evidence. Any monitoring of a site will need to be within the guidelines of the Regulation of Investigatory Powers Act 2000. Where appropriate, the person/s reporting the breach may be requested to take photographs or keep a diary of events for use as evidence if the matter proceeds to formal enforcement action.
- Serving a Planning Contravention Notice (PCN) requiring the owner/occupier/person responsible to provide information relating to the potential breach of planning control within 21 days or in the case of a Listed Building a Sec 330 Notice may be served to establish ownership of the property (see Section 6).
- Checking against the legislation to see if the works are within permitted development limits.
- Consultation with other departments or organisations.
- A Land Registry Search to establish ownership of the land (if registered) and a 'Requisition for Information' to identify any other people with an interest in the land together with information about the length of time the activity/development has been in existence.

- In certain circumstances, the owner or other persons responsible for a breach of planning control in relation to Listed Buildings, Tree Preservation orders or non-compliance with enforcement notices may be invited to attend a Police and Criminal Evidence Act recorded interview. This is a voluntary interview.

7. RESULTS OF INVESTIGATIONS

The following outlines the likely steps to be taken in certain scenarios.

- **If a reported breach relates to a non-planning matter such as disputes over land ownership, boundary disputes, private covenants and legal agreements/obligations, moral or ethical concerns, commercial competition and private interests.**

As these are outside the jurisdiction of planning, no planning enforcement action can be taken. However, if the report can be dealt with by another Council service the person/s reporting will be advised and the relevant information passed on with the person/s reporting permission. If it appears that another authority or organisation may be able to assist the person/s reporting they will be advised of this and provided with contact details if possible.

- **If the breach reported relates to an activity, building or works that are lawful for planning purposes, for example the works are “permitted development”.**

In these circumstances no planning enforcement action can be taken and the person/s who reported the breach will be advised.

- **If the report relates to a minor breach of regulations and is regarded as so trivial that formal action would not be justified as no harm is being caused (for example there is no harm to the amenity of an area and/or residents, no highway safety issues and the breach complies with planning policy).**

If action were taken in these circumstances the Council could be justifiably criticised and costs may be awarded in any resultant appeal. No planning enforcement action will be taken in these circumstances and the person/s reporting the breach will be advised of this. Enforcement action will not therefore be taken against a minor or technical breach which causes no harm to the local area (examples could include a shed constructed a bit higher than permitted and located within a large garden away from neighbours and not highly visible, or a window inserted in a dwelling that does not overlook neighbours). Nor will enforcement action be taken purely to regularise breaches of planning control that have been found to be acceptable. In these cases an application may be invited for consideration through the usual process to regularise the situation but further formal action will not be taken regardless of whether or not an application is submitted.

- **If a breach of planning control has occurred and there is considered to be planning harm.**

In these circumstances the Council will consider what enforcement action should be taken.

Although a report may be received regarding a single matter (for example a building being constructed in the wrong location), the Council will look at all other aspects of the development (such as window positions and height) to establish if any other breaches have occurred. If other breaches have occurred, these will be investigated.

8. TIME LIMITS FOR FORMAL ACTION

There are time limits for taking enforcement action. In cases prior to 25th April 2024 where the development is substantially complete, it will become lawful development if no formal enforcement action is taken within the timelines below;

- Within 4 years of substantial completion of the construction of a building;
- Within 4 years for an unauthorised change of use to a single dwelling;
- Within 10 years for any other breach.

Under The Levelling Up and Regeneration Bill, from 25th April 2024 onwards, any breach of planning must be able to demonstrate 10 continuous uninterrupted years in order to be outside the time limit for enforcement action. This change does not apply where any operational development or change of use to a dwelling was substantially complete before this deadline. In these cases, the four-year rule applies.

These time limits do not prevent enforcement action where a further breach has taken place within 4 years of previous enforcement action, where it relates to a listed building, or where there has been deliberate concealment of a breach.

9. TAKING ENFORCEMENT ACTION

Once investigations are complete and a breach of planning control causing harm has been identified, officers will decide whether or not it is expedient to take enforcement action. They will take into account the development plan and any other material considerations. Many breaches of planning control can be resolved informally and by negotiation with the owner/occupier. Formal action will be taken only where other means to resolve the problem have been unsuccessful or inappropriate in relation to the breach carried out for example breaches of Tree Preservation Orders or significant unauthorised works to a Listed Building.

The Council will take enforcement action when it is essential to maintain public safety, the character and appearance of the area, the area's social and economic well-being and to preserve the natural and built environment. The impact of developments varies greatly and enforcement action should be proportionate to the specific breach.

Enforcement action will not be taken merely to rectify an absence of planning permission if it is likely that planning permission would have been granted for the development or where there is no loss of public amenity. Equally enforcement action will not be taken as a means of punishment.

Enforcement action is normally authorised by the Service Lead of Legal, in conjunction with the Development Management Manager under delegated powers. However, where matters are considered to be of strategic or wider importance, the Service Lead may refer the matter to the Planning Committee.

Where enforcement action is considered expedient officers will draw this to the attention of the person responsible (and the landowner if different). They will be advised of the most appropriate course of action, which will be proportionate to the breach of planning

control, and generally as follows:

- **If the development can be amended such that planning permission is no longer required:**

The Council will advise if changes can be made to a development that is in breach of planning control so that it no longer requires planning permission. If the development is amended as per the advice given to the owner, no further action will be taken once the works have been carried out and officers have confirmed that it no longer requires planning permission. The person/s who reported the breach will be advised of the outcome.

- **If the development could satisfy relevant policies and other material considerations with modification and/or the imposition of appropriate conditions:**

The Council will request a “retrospective” application for the relevant permission/consent. A period of 1 or 2 months (according to the complexity of the matter) will be allowed for submission of the relevant application requested. This does not automatically imply that permission will be granted. Any application would follow the normal planning process, including consultation and notification of neighbours where required. Formal enforcement action will not take place until after the application has been determined and will not be taken if the breach of planning control is remedied by the granting of planning permission.

- **If the breach could be immune from enforcement action due to the passage of time:**

The person responsible will be advised of the option to submit an application for a Certificate of Lawful Use or Development. A period of 1 or 2 months (according to the complexity of the matter) will be allowed for submission of the relevant application. This does not automatically imply that a certificate will be granted. Any application would follow the normal planning process. Formal enforcement action will not take place until after the application has been determined and will not be taken if the breach of planning control is remedied by the grant of a certificate.

- **If the breach is causing serious harm and permission is unlikely to be given:**

The Council will ask for the activities or the works to cease voluntarily. A reasonable time will be allowed, depending on what needs to be done. For example business tenants will be allowed a suitable time to find somewhere else to operate if livelihoods are affected. A retrospective planning application will not be invited, but if one is submitted enforcement action may be suspended to allow determination of the application. However, if the proposal is fundamentally unacceptable and serious harm is being caused, the Council may not await the outcome of an application before taking further action.

- **If the breach cannot be resolved by negotiation and/or a retrospective application is refused:**

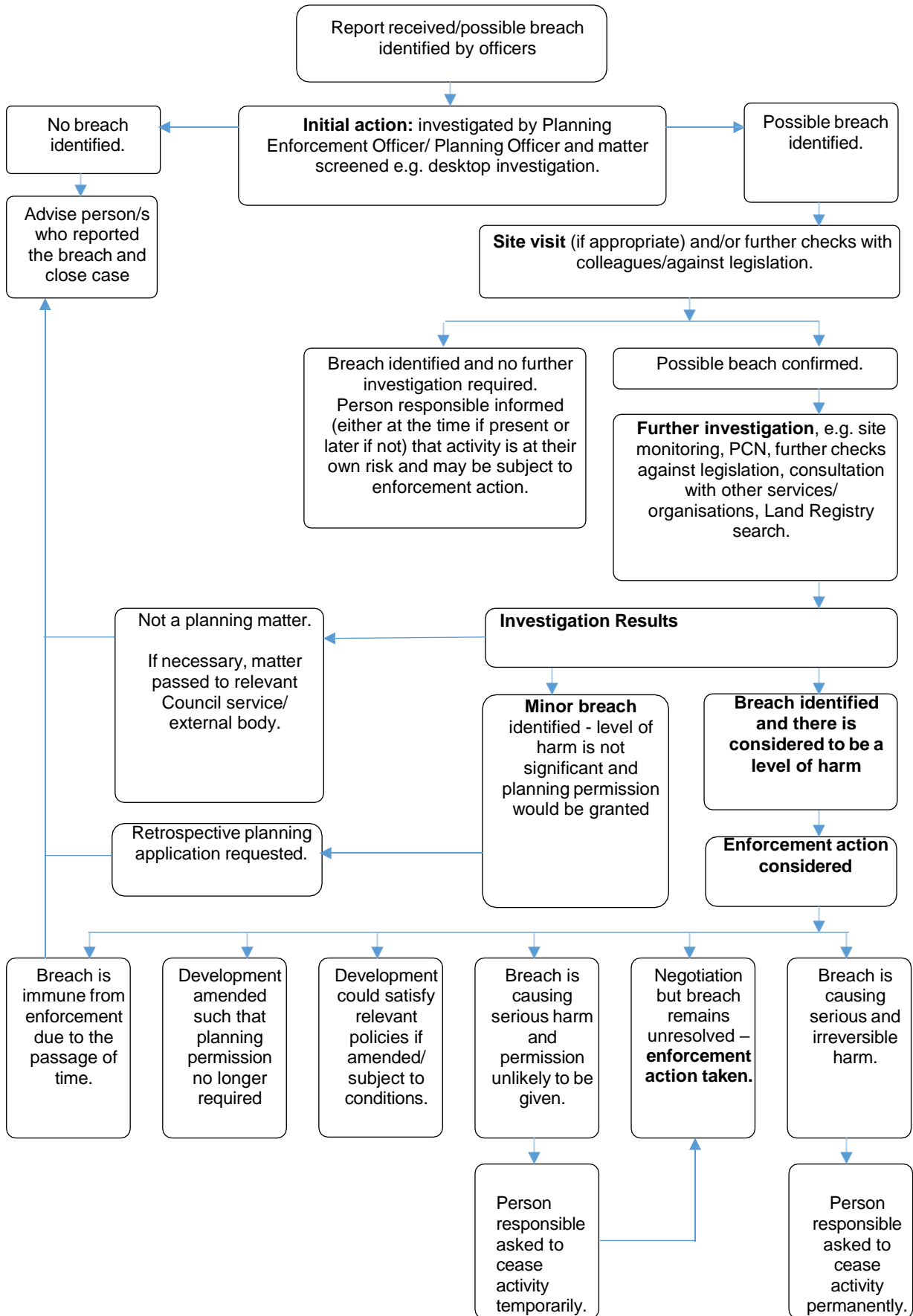
Enforcement action will be taken if it is expedient. This is a discretionary decision made on a case by case basis and must be taken only after proper consideration of the

relevant facts and planning merits. Formal action must be justified and the specific requirements and the time period to comply with these must be reasonable. The responsible person will be advised of the right of appeal against refusal of retrospective permission but the Council will not await the submission and outcome of an appeal before taking formal enforcement action, because this can be used as a mechanism for prolonging a breach. There is a right of appeal against an enforcement notice and this can be dealt with concurrently with an appeal against a refusal of permission.

- **If the breach is resulting in serious and irreversible harm requiring immediate prohibition:**

The responsible person will be advised to stop work immediately. If the request is not complied with the Council will serve a 'Stop Notice' or 'Temporary Stop Notice' (TSN). These will only be directed at preventing the specific harm that is occurring. As a Stop Notice can only be served in conjunction with an enforcement notice it is not possible to serve one immediately a breach of planning control is identified. A TSN can be served on its own and is the quickest way to compel a development to cease as it take effect immediately. This will compel those to stop the breach of planning control straight away but only for a limited period of 56 days. During this time the Council will decide whether further enforcement action is expedient. A TSN cannot be used to effectively deprive someone of their home but it can be used to prevent the home being established. Stop Notices and Temporary Stop Notices are only available to deal with development requiring planning permission.

10. ENFORCEMENT PROCESS FLOW CHART



11. PLANNING ENFORCEMENT POWERS AVAILABLE

The following details the planning enforcement and related powers available to the Council.

Planning Contravention Notice

A Planning Contravention Notice can be issued under Section 171C of the Town and Country Planning Act 1990 and can be used to:

- allow the Council to require information needed for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and;
- can be used to invite its recipient to respond constructively to the Council about how any suspected breach of planning control may be satisfactorily remedied.

A planning contravention notice can be served when the Council believes that a breach of planning control may have occurred to find out more information before deciding what, if any, enforcement action to take. It cannot be used to undertake an investigative trawl just to satisfy the Council about what activities are taking place on a parcel of land.

The power is discretionary and as such the Council does not need to issue a planning contravention notice before taking any enforcement action.

Failure to complete or return a notice within 21 days is an offence. It is also an offence to provide false or misleading information on the notice. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement Notice

An enforcement notice should only be issued where the Council is satisfied that a breach of planning control has occurred and it is expedient and in the public interest to issue a notice.

An enforcement notice requires works to be undertaken or a use to cease to rectify a breach of planning control within a specified time period.

The legislation (Section 172 of the Town and Country Planning Act) 1990 requires that an enforcement notice shall: -

- State the nature of the alleged breach;
- Identify the land to which the notice relates;
- Clearly state the matters that appear to constitute the breach of planning control;
- State the Council's reason for issuing the notice, including any relevant development plan policies that are allegedly contravened;

- Specify the date on which the notice takes effect (not less than 28 days after service to allow for an appeal);
- Specify the steps which the Council require to be taken or the activities which the Council require to cease in order to remedy the breach or any injury to amenity it has caused;
- State a reasonable period for compliance after the notice takes effect, having regard to the practicalities of carrying out the required steps and the effect that the breach is having;
- Be registered as a local land charge in Part 3b of the Land Charges Register.

The enforcement notice will state the breach of planning control, the reasons for serving the notice and the steps to be taken in plain language that will be understood by anyone required to comply with its requirements. This is particularly important given that criminal liability attaches to any breach of the requirements of an enforcement notice. This should also make checking for compliance easier and assist in mounting a successful prosecution if the notice is not complied with. The enforcement notice may require the restoration of the land to its condition before the unlawful development took place; the demolition or alteration of any building or other works; the discontinuance of the use of land; or the carrying out of any building works or other operations.

The enforcement notice must be directed only at the specific breach. It cannot take away existing lawful rights to use land or retain buildings and other works. The Council can direct an enforcement notice to only part of the breach of planning control and/or it can require only a partial remedy. This is termed “under enforcement” and will be used to take action where only part of the unauthorised works causes harm and therefore only action against those elements is appropriate. The notice will be served on the owner of the land and therefore tenants carrying out works to a rented property should keep their landlord advised of any enforcement investigation on their property; together with anyone who we identify as having an interest in the land.

It is an offence not to comply with an enforcement notice once the period for compliance has elapsed, and there is no outstanding appeal. The LPA does have discretionary power under the legislation to extend the time period only if they consider it to be necessary. A person guilty of an offence is liable on conviction to an unlimited fine. The Courts will have regard to any financial benefit accrued from the offence when determining the fine. The Council on receipt of a successful conviction can apply for a Confiscation Order under the Proceeds of Crime Act 2002 to recover any financial benefit obtained through the unauthorised development.

Appeals against an Enforcement Notice

There is a right of appeal to the Secretary of State against an enforcement notice. The appeal must be lodged before the notice takes effect. Details of how to appeal will be included with the enforcement notice. An appeal can be lodged on one or more of the following grounds:

- a) That planning permission should be granted for what is alleged in the notice.

- b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- c) That there has not been a breach of planning control.
- d) That at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice
- e) That the notice was not properly served on everyone with an interest in the land.
- f) That the steps required to be taken, or the activities required to be ceased, exceed what is necessary to remedy the breach of planning control or to remedy any injury to amenity which has been caused by the breach
- g) That the time given to comply with the notice is too short.

When an appeal is made against an enforcement notice on ground a) above, an application for permission to retain the development is deemed to have been made. This will only be considered by the Planning Inspectorate if the appropriate fee (two times the planning application fee where applicable) has been paid.

From the 25 April 2024, the Levelling-up and Regeneration Act 2023 limited the circumstances when a ground (a) appeal (an application for retrospective planning permission) against an enforcement notice can be brought. These changes do not apply to appeals against enforcement notices that were issued, and have not been withdrawn, before 25 April 2024. This change means that if planning permission for what is alleged in an enforcement notice has been refused by the Local Planning Authority AND that refusal was appealed and dismissed, an appellant in an enforcement appeal cannot appeal under ground (a).

There are some restrictions. The refused planning permission must have been appealed under s78 to the Secretary of State and the enforcement notice must have been issued within 2 years of the appeal decision to which the development relates.

As of the 25 April 2024, there is now included a power for the Secretary of State to dismiss appeals where it appears to them that the appellant is responsible for undue delays in the progress of the appeal. This change applies to both enforcement appeals and certificate of lawfulness appeals.

The Breach of Condition Notice (BCN)

This is an alternative to an enforcement notice that is available to remedy the failure to comply with any condition of a planning permission. There is no right of appeal and failure to comply is an offence.

The BCN must specify the steps that must be taken, or the activities that must cease in order to secure compliance with the condition(s). The BCN may, therefore, be positive (requiring something to be done) or prohibitive (requiring something to stop). Unlike an

enforcement notice, a BCN can only require full compliance. A BCN also has to specify a period for compliance, which shall be not less than 28 days.

Non-compliance with the notice is an offence that can be prosecuted through the Magistrate's court. There is no right of appeal against the notice. A person guilty of an offence is liable on summary conviction and a fine.

Complying with an Enforcement Notice or Breach of Condition Notice

As soon as the compliance period set out in an enforcement notice or BCN has passed, enforcement officers will investigate whether or not the breach of planning control is continuing.

When officers conclude that notices have been complied with, this will be confirmed verbally to the owner/occupier and to anyone who has complained about the building works or activity. Compliance with an enforcement notice does not, however discharge it. The notice will remain in place to prevent any further breaches and it will continue as a registered charge on the land or property.

Failure to comply with the requirements of an enforcement notice or BCN is an offence. If there are grounds to suspect that an offence has been committed, interviews of suspects or witnesses will be carried out in accordance with Police and Criminal Evidence Act 1984 (PACE) requirements. The Council will take firm action where the requirements of an enforcement notice or BCN have not been complied with.

Further action following non-compliance with an Enforcement Notice or BCN

The Council may attempt to bring the matter to a successful conclusion as quickly as possible through the pursuit of action in the Courts (usually Magistrates Courts). Any decision to prosecute will have due regard to the availability, nature and strength of evidence and will consider whether the public interest is served (see sections below under Prosecution).

Alternatively, an injunction may be sought (see below). This is an order from the Court to comply with the Enforcement Notice. Failure to then follow the court order is contempt of court and carries the threat of a prison sentence.

The Council can take Direct Action (see below) when the requirements of a Notice have not been complied with. This will only be considered in exceptional circumstances. The Council can place a legal land charge against the property to enable all reasonable costs incurred in the direct action to be recovered and in certain circumstances enforce the sale of the land.

Stop Notice

The Council can, when appropriate to do so, under Section 183 of the Town and Country Planning Act serve a Stop Notice requiring alleged breaches of planning control (including activities) to cease immediately. Such a notice can only be served in conjunction with an Enforcement Notice. There are limitations on the service of this notice and additionally compensation may be payable by the Council in some circumstances if the recipient makes a successful challenge. It is used very selectively and it is not

necessarily an instant solution.

The Stop Notice is not usually effective until 3 days after it is served and cannot prohibit the use of any building as a dwelling house.

In certain circumstances the Council can be liable for compensation if the associated enforcement notice is quashed, varied or withdrawn.

The serving of a notice is discretionary and should only be used where it is expedient that any relevant activity should cease before the expiry of the compliance period in the associated enforcement notice.

If a Stop Notice is contravened a person is guilty of an offence and if found guilty shall be liable upon summary conviction to a fine not exceeding £20,000 or on conviction on indictment to unlimited fine. The Court will have regard to any financial gain that has accrued or likely to accrue.

There is no right of appeal against a Stop Notice.

Temporary Stop Notices

Where the Council consider that there has been a breach of planning control and it is necessary in order to safeguard the amenity of the area that the activity that amounts to the breach should stop immediately, Section 171E of the Town and Country Planning Act 1990 enables the local planning authority to issue a temporary stop notice. This differs from the normal stop notice powers because the temporary stop notice does not have to wait for an enforcement notice to be issued. In addition, the effect of the temporary stop notice will be immediate.

A Temporary Stop Notice can require an activity to cease, or reduce to minimise any impact but cannot be used to prevent the use of a building as a dwelling house.

A Temporary Stop Notice expires after 56 days. Should further action be required after the 56 days an enforcement notice and stop notice will be required.

If a Temporary Stop Notice is contravened a person is guilty of an offence and if found guilty shall be liable upon summary conviction to a fine not exceeding £20,000 or on conviction on indictment to unlimited fine. The Court will have regard to any financial gain that has accrued or likely to accrue.

There is no right of appeal against a temporary stop notice.

Injunction

Where the Council considers a breach of planning control to be a serious and immediate risk to health and safety, or necessary in terms of expediency, it may apply to the County or High Court for an Injunction under Section 187B of the Town and Country Planning Act 1990. This can be extremely expensive, but can be effective in appropriate circumstances. An injunction is a special court order that requires a party to refrain from certain acts or to carry out certain measures.

Proceedings for an injunction are the most serious enforcement action a Council can take as failure to comply with an injunction can lead to prison for contempt of court. As a

result an injunction is usually a last resort following persistent breaches of planning control.

Planning Enforcement Order

Where somebody deliberately conceals unauthorised development, it may not come to light until the period for taking action (4 of 10 years) has expired. A planning enforcement order enables the Council to take action notwithstanding the time limits.

Where there is sufficient evidence of a breach, the Council can apply for a planning enforcement order under Sections 171B, 171BB and 171BC of the Town and Country Planning Act 1990.

The application must be made to the magistrate's court within 6 months of the Council having sufficient evidence to identify the apparent breach. There is a right to be heard by the court. The Council has to prove that positive steps were taken to conceal the unauthorised development.

The effect of the order is that the Council will be able to take enforcement action, generally within a year of the order being granted.

Enforcement warning notices

From 25 April 2024, Local Planning Authorities can issue an enforcement warning notice where it appears to them that there has been a breach of planning control and there is a reasonable prospect that, if an application is made, permission would be granted. The enforcement warning notice must state that unless an application for planning permission is made within a period of time specified in the notice, further enforcement action may be taken. Issuing an enforcement warning notice 'stops the clock' on immunity and can reduce the number of appeals for 'acceptable' developments when an enforcement notice has been issued.

Development Commencement Notices

The Town and Country Planning Act has been amended under the Levelling up and Regeneration Act 2023 to include powers to serve commencement notice. This applies where planning permission has been granted.

Before the development has begun, the person proposing to carry it out must give notice (a 'commencement notice') to the Local Planning Authority (LPA), specifying when they propose to commence the work.

Once a person has given the LPA a commencement notice, they may vary the date of the commencement of development and must do so if the development is not commenced on the date previously given.

Where it appears to the LPA that a person has failed to comply with the requirements set out above, they may serve a notice on any relevant person, requiring the relevant information to be submitted to the LPA.

If a notice is served by the LPA, requiring the information to be provided to it, and the relevant person fails to give that information within 21 days, they shall be guilty of an offence.

Completion Notices

Where a planning permission has been granted for development and is subject to the 'commence within 3 years' condition, and this condition has been complied with, but the development has not been completed, The Local Planning Authority can serve a completion notice.

This can be served if the Local Planning Authority are of the opinion that the development will not be completed within a reasonable time period, then they may serve a notice ('completion notice') stating that the planning permission will cease to have effect at a specified time ('the completion notice deadline').

The completion notice must be served on the owner of the land, the occupier of the land and any person with an interest in the land.

An appeal against a completion notice is made to the Secretary of State and can be made under any of all of the following 3 grounds:

- That the appellant considers that the development will be completed within a reasonable period;
- That the completion notice deadline is an unreasonable one and;
- That the notice was not served on the persons on whom it was required to be served.

The effect of a completion notice is that the planning permission to which the notice related becomes invalid at the completion notice deadline.

Advert Removal Notice

Sections 225 of the Town and Country Planning Act 1990 provide the Council with powers to deal with illegal adverts.

Section 225A of the 1990 Act (as amended) allows the Council to remove an illegal advert through the serving of an Advert Removal Notice. If the notice is not complied with within 22 days, the authority may remove the structure/advert and recover any reasonable expenses incurred in doing so.

There is a right of appeal to the Magistrate's Court.

The Council also has powers under Section 225 to remove or obliterate any placard or poster displayed illegally following advance notice to the person responsible for the display.

High Hedges Remedial Notice

The Council can take action where a hedge or a row of trees forming a hedge cause a significant loss of amenity to a neighbouring property. The legislation does however require complainants to have approached the owner of the hedge and pursued all reasonable means of mediation before making a complaint to the Council. If a reported breach has been properly made and the Council decide that action should be taken to resolve the breach we may issue a formal notice to the person responsible for the hedge, setting out what must be done and by when. There is also a fee payable to the Council for investigating a High Hedge Report. This action is under the Anti-Social Behaviour Act 2003 and is known as a remedial notice. The remedial notice can include long-term maintenance of the hedge at a lower height. It cannot involve reducing the height of the hedge below 2 metres, or its removal. Although the Council cannot require such action, the hedge owner is free to go further than the remedial notice requires. The remedial notice becomes a charge on the property and legal obligations under such a notice pass to any subsequent owners. It is an offence not to comply and if found guilty on summary conviction a fine not exceeding level 3 on the standard scale can be imposed and there is also a provision for daily fines if the works remain outstanding following a court order. The Council's decision can be appealed to the Planning Inspectorate by the applicant or person affected by the Notice.

Untidy Land Notice

Owners and occupiers sometimes neglect their land and buildings and allow them to become seriously unkempt or derelict. This can create eyesores that can be particularly damaging for the neighbourhood. Section 215 of the 1990 Act empowers planning authorities to require owners to take steps to alleviate these problems. These powers can be used in a variety of situations – e.g. heavily overgrown and neglected gardens; derelict buildings and sites that disfigure town centres and village centres. The power can also be exercised in conjunction with other environmental powers such as those directed to the upkeep of listed buildings and powers exercised by the Council's Environmental Health and Building Regulations Services. Officers will liaise with these services to ensure that the most appropriate remedy is used.

Officers will investigate such sites and if remedial action is necessary they will contact the owner and advise them that the state of their land and/or buildings is causing problems. They will be advised of the steps they need to take to alleviate the problems and given (initially) 28 days to voluntarily carry these out. If no serious effort has been made, the Council will serve a formal notice compelling the owner/occupier to take the necessary steps. The notice becomes effective after 28 days. There is a right of appeal to the Magistrates or Crown Court. If this happens the notice has no effect pending the outcome of the appeal.

Once the notice becomes effective, it is an offence not to carry out the required steps within the specified time period. The Council may prosecute the offender for non-compliance. It may also enter the land, carry out the works and recover the costs from the owner either by sending them a bill or applying to the Land Registry to place a charge on the property.

Prosecution

The Council will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the above Notices where the date for compliance has passed and the requirements have not been complied with.

The decision to prosecute:

In making a decision on a prosecution the authorised officer will apply two tests. Application of these tests will ensure that all relevant factors are considered and that fair consistent decisions are made about each potential prosecution.

The first test is consideration of the evidence. If the case does not pass the evidential test a prosecution must not go ahead no matter how serious the case is. If the evidential test is satisfied the authorised officer will then consider if it is in the public interest to prosecute. A prosecution will only be taken if both tests are satisfied.

The Evidential Test:

The first matter the Council will look at when considering a caution, administrative penalty or a prosecution is whether there is enough evidence to prosecute the matter. This is the evidential test. If the case does not pass the evidential test it must not go ahead no matter how serious or important the case may be. In order for a case to pass the evidential test there must be enough evidence to provide a “realistic prospect of conviction” against each defendant on each charge.

Authorised officers must be satisfied that there is sufficient admissible reliable evidence to provide a realistic prospect of conviction. This is detailed further in the overarching Regulatory Enforcement and Prosecution Policy published by the Council.

As part of the process the Council must consider what the defence case is and how it is likely to affect the prosecution case. A realistic prospect of conviction is an objective test; it means that a jury or a bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. When deciding whether there is a realistic prospect of conviction officers should have regard to whether the evidence can be used in court and also whether or not it is reliable.

If the evidential test is satisfied then the most appropriate way of dealing with the matter will be assessed. When considering which course of action is the most appropriate the Council will consider the factors outlined below. This is called “the Public Interest Test”.

The Public Interest Test:

The more serious the offence is the more likely it is that a prosecution should take place. However the Council will weigh public interest factors carefully. Public Interest Factors in favour of and against Prosecution are detailed in the overarching Regulatory Enforcement and Prosecution Policy published by the Council.

Further Action:

Failure to comply following a successful prosecution may lead to further prosecutions to secure compliance where an offence is on-going.

Where an offence leads to on-going financial or other gain for the offender then the Council will consider whether to take action under the Proceeds of Crime Act 2002 to ensure that the offender does not gain from their actions.

Direct Action

The Council is empowered to take direct or default action to remedy a breach of planning control if the requirements of a Notice have not been complied with. This will only be considered in exceptional circumstances. This may involve the use of contractors to enter a site and physically remove or put right unauthorised building work. Such circumstances are likely to arise when successive fines by the Courts have not proved to be a sufficient deterrent for the perpetrators of the breach. It may also be considered where the effects of a breach of planning control are so harmful that compliance with notices should not be subjected to delay in Court processes. The Council can place a legal land charge against the property to enable all reasonable costs incurred to be recovered. In some circumstances we can also enforce the sale of the land to recover our costs.

12. TREES

Section 198 of the 1990 Act provides the Council with the power to protect trees through the making of Tree Preservation Orders. Consent is then required to carry out works to the protected trees. Section 210 of the Act makes it an offence to cut down, uproot or willfully destroy a protected tree or to willfully damage, top, or lop a protected tree in such a manner as to be likely to destroy it.



Provided the trunk diameter is more than 7.5 cm at 1.5m above ground level, trees in Conservation Areas are similarly protected. Notice of any intended works has to be given to the Council and work is unauthorised until the Council has responded to the notice or 6 weeks have elapsed, whichever is the sooner.

Consent is not required for the following works to protected trees.

- a) Works to trees that are dead
- b) Works to trees that are urgently necessary to remove an immediate risk of serious harm. 5 working days prior written notice must be given to the authority before cutting down or carrying out other work on a dead tree.
- c) Works to trees that are necessary in order to implement a planning permission
- d) Works to trees cultivated for the production of fruit where such work is in the interests of that trade or business.
- e) Removal of deadwood from a living tree.

In relation to a) and b) above in particular it is best to check with the Councils Tree Officer before undertaking such work to ensure that they are satisfied that the tree is dead or that the works are genuinely urgent and necessary.

Section 97 of the Environment Act 1997 makes it an offence to remove what are termed “important” hedgerows, without the consent of the Council. Where this takes place the Council has the power to serve a ‘hedgerow replacement notice’.

The Council will give high priority to reported breaches relating to works to protected trees and hedgerows as any harm will be irreversible and arises from not just the loss of the tree or hedgerow itself but the loss of wildlife habitat that it provided.

Tree enforcement issues fall into two principal categories:

- unauthorised works or, damage to, or removal of trees that are protected by Tree Preservation Orders or situated within Conservation Areas (see below), and;
- breach of planning conditions relating to tree retention and protection. These will be dealt with in the same way as a breach to any other planning condition (see above).

There are two offences, which apply equally to trees protected by Tree Preservation Orders and those within Conservation Areas.

- Firstly, anyone who cuts down, uproots or willfully destroys a tree, or who lops, tops or willfully damages it in a way that is likely to destroy it, is liable, if convicted in the Magistrates Court, to a fine of up to £20,000. If the person is committed for trial in the Crown Court, they are liable on conviction to an unlimited fine. The Courts have held that it is not necessary for a tree to be obliterated for it to be "destroyed" for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.
- Secondly, anyone who carries out works on a tree that are not likely to destroy it is liable, if convicted in the Magistrates Court, to a fine of up to £2,500. Any proceedings for offences in this category must be brought within six months of the date the offence was committed.

In addition to directly carrying out unauthorised works on protected trees, it is an offence to cause or permit such works.

In order to bring a successful prosecution, the Authority must be able to prove that:

- the defendant has carried out, or caused, or permitted works on the tree;
- the tree was protected;
- the works were carried out without the Authority’s consent; and
- the works were not exempt works.

Whenever a tree has been removed in contravention of the legislation, or because it is dead, dying or dangerous, there is an automatic duty on the landowner to plant a replacement tree of a suitable size and species at the same place as soon as reasonably possible (unless that requirement is waived by the Local Planning

Authority). The planting of a replacement tree is the minimum the Council will require from a landowner who has removed a tree in contravention of the legislation.

The Council has a range of possible further courses of action available to deal with cases of unauthorised works on protected trees. These include the following:

- seek a prosecution;
- administer a formal caution. This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether or not to prosecute at a later stage for another similar offence;
- under Section 206 of the Town and Country Planning Act 1990, require the planting of a replacement tree for each tree destroyed;
- under Section 207 of the same Act, serve a replanting direction. This is a formal procedure to secure replacement planting, which can be invoked if the landowner does not otherwise comply with a duty to carry out replacement planting;
- On receipt of a successful conviction can apply for a Confiscation Order under the Proceeds of Crime Act 2002 to recover any financial benefit obtained through the works; and,
- take no formal action. This may be accompanied by informal action, such as advising the alleged offender to ensure that the incident is not repeated.

Decisions as to what action to take in cases of unauthorised works on trees will be taken in the public interest, with each case being dealt with on its own merits.

Where enforcement action against works to protected trees and important hedgerows is involved, the Council will take the following into account alongside the Evidential and Public Interest Tests outlined in Section 6 above:

- The size of the tree(s)/length of hedge(s) involved;
- The prominence of the tree(s) or hedge(s);
- The condition of the tree(s) or hedge(s);
- The life expectancy of the tree(s) or hedge(s);
- The seriousness of the offence;
- The loss of/effect on amenity;
- Whether there have been persistent offences by the people involved;
- Any other mitigating factors.

Where a tree which is the subject of a Tree Preservation Order is removed without consent, or a tree in a Conservation Area is removed without consent, the Council will:

- If the tree is a single specimen tree of high amenity value in a prominent location and having a significant impact on amenity, prosecute those responsible for its removal and seek replacement planting in all but exceptional circumstances;
- In all other cases (e.g. lesser value trees or groups), prosecute, issue a Caution and/or require the provision of a semi-mature replacement tree in all but exceptional circumstances;
- With regard to trees in a Conservation Area, the seriousness of an offence will be judged by determining if the tree would have been made the subject of a Tree Preservation Order. If the tree was not worthy of a Preservation Order then the Council is unlikely to Prosecute but will seek the planting of a suitable replacement tree and will decide whether or not to issue a Caution.

Where unauthorised works are carried out to trees the subject of a Tree Preservation Order or are located within a Conservation Area:

- The seriousness of the offence is determined by the extent and quality of works and the effect on visual amenity and life expectancy;
- Where minor works have been carried out to an acceptable standard, the owner and any other relevant parties will be advised that any further works must be subject to a formal application;
- Where more extensive works have taken place that would not have been granted, the Council will decide whether to issue a Caution or Prosecute; Prosecution is more likely where there is a clear wider effect on visual amenity.
- Where works have been carried out but would have been granted, but to an unacceptable/poor standard, the Council will ensure remedial works are undertaken.

13. LISTED BUILDINGS

Unauthorised works to a listed building is an offence under Section 9 of the Planning (Listed Building and Conservation Areas) Act 1990. A person who is guilty of such an offence will be:

- Liable on conviction to imprisonment not exceeding 2 years or an unlimited fine or both.



In deciding the amount of fine to be imposed on any person convicted, the court will take into account any financial benefit which has been gained as a result of the offence.

The Council has a range of possible courses of action available to deal with cases of unauthorised works to listed buildings. These include the following:

- seek a prosecution;
- administer a formal caution. This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether or not to prosecute at a later stage for another similar offence;
- serve a breach of condition notice – note it is an offence to fail to comply with a condition on a listed building application;
- serve a temporary stop notice or stop notice;

- negotiate the reversal of works/works to address the unauthorised works;
- serve an enforcement notice to remedy the works – note that there are no time limits for issuing listed building enforcement notices;
- take no formal action. This may be accompanied by informal action, such as advising the alleged offender to ensure that the incident is not repeated.

With regard to Listed Buildings, the Council also has the following powers at its disposal: Urgent Works Notices and Repairs Notices and more information on this is available in Historic England's publication 'Stopping the Rot - A Guide to Enforcement Action to Save Historic Buildings'.

Urgent Works Notices

Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables local authorities to undertake works which are urgently necessary for the preservation of a listed building. Works can only be carried out to parts of a building that are not in use. The owner will be given a minimum of seven days' written notice of the intention to carry out works. The notice will describe the works to be carried out.

Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows the Council to recover the costs of the works from the owner. The owner will be served a notice requiring them to pay the expenses of the works. The notice can be appealed to the Secretary of State within 28 days of the service of the notice.

Repairs Notices

Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows the Council to serve a Repairs Notice on the owner of a listed building specifying works that it considers are reasonably necessary for the preservation of the building.

After 2 months, if it appears that reasonable steps are not being taken to carry out the repairs, the Council can begin compulsory purchase proceedings under Section 47 of the Planning (Listed Building and Conservation Areas) Act 1990. This process requires confirmation from the relevant Secretary of State.

Serving a Repairs Notice does not commit the Council to proceed to compulsory purchase action. The Council can withdraw the Repairs Notice at any time giving notice to the owner.

Decisions as to what action to take in cases of unauthorised works to listed buildings will be taken in the public interest, with each case being dealt with on their own merits.

When considering enforcement action against unauthorised works to listed building or other heritage assets, in addition to the Evidential and Public Interest Tests the following will be taken into account:

- an injunction will be considered where it would (i) prevent anticipated unauthorised works (ii) remedy damage where there is urgency, for example where urgent remedial action is required to prevent further imminent degradation and (iii) compel compliance with an enforcement notice where there are little signs of it happening;
- Prosecution will be likely to be used where unauthorised demolition has taken place or where unauthorised alterations are considered to be harmful to the special

architectural or historic character of the building;

- Prosecution is unlikely if the alteration is sympathetic to the special architectural or historic character of the building;
- The Council will judge the effect on the character of the building, its listing and consider any changes to the form, scale, appearance, integrity and special character that contributes to it being of special interest; the structural integrity of the building; and the relationship between the building and its setting.

14. BREACHES OF SECTION 106 LEGAL AGREEMENTS

When granting planning permission for development, the Council can impose planning obligations on the applicant. These obligations are usually contained with a legal agreement (often called a S.106 Agreement) and require certain works to be carried out or contributions to be paid/complied with at certain times. These agreements sit alongside the planning permission such that the land owner and developer are required to comply with any obligations with the legal agreement as well as any conditions on their planning permission.

If the Council decides that there is a breach of a planning obligation (e.g. a financial contribution has not been paid or required works have not been carried out within the timescale specified within the legal agreement), there are three options available:

- The Council can apply to the Court for an injunction to force the obligation(s) to be complied with. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment;
- The Council can enter the land to complete works if an obligation required works to be carried out by a certain time and this has not been carried out. The Council must give 21 days' notice of the intention. The Council will seek to recover costs incurred in the completion of the works;
- The Council may place a local land charge on the land or property which is binding on successive owners.

15. FURTHER INFORMATION

For further information and guidance please see useful links below;

[Planning Portal](#)

[Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](#)

[Search the List - Find listed buildings, monuments, battlefields and more | Historic England](#)

[High hedges: complaining to the council - GOV.UK \(www.gov.uk\)](#)

[Outdoor advertisements and signs: a guide for advertisers - GOV.UK \(www.gov.uk\)](#)

MID DEVON DISTRICT COUNCIL – NOTIFICATION OF KEY DECISIONS

November 2024



The Forward Plan containing key Decisions is published 28 days prior to each Cabinet meeting

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
November					
Mid Devon Gypsy and Traveller Accommodation Assessment	Cabinet	12 Nov 2024	Tristan Peat, Forward Planning Team Leader	Cabinet Member for Planning and Economic Regeneration	Open
Tiverton EUE, Area B Masterplan	Cabinet	12 Nov 2024	Christie McCombe, Area Planning Officer	Cabinet Member for Planning and Economic Regeneration	Open
Leisure Management System Update	Cabinet	12 Nov 2024	Haley Walker, Leisure Business Manager	Cabinet Member for Quality of Living, Equalities and Public Health	Part exempt
Car Parking Spaces in Halberton	Cabinet	12 Nov 2024		Cabinet Member for Housing, Assets and Property and Deputy	Part exempt

Agenda Item 11

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
				Leader	
Cullompton Town Centre Relief Road	Cabinet	12 Nov 2024	Adrian Welsh, Strategic Manager for Growth, Economy and Delivery Tel: 01884 234398	Cabinet Member for Planning and Economic Regeneration	Open
Grand Western Canal Conservation Area Appraisal and Management Plan	Cabinet	12 Nov 2024	Tristan Peat, Forward Planning Team Leader	Cabinet Member for Planning and Economic Regeneration	Open
	Cabinet	10 Dec 2024			
	Council	18 Dec 2024			
Tax Base Calculation 2025/2026	Cabinet	12 Nov 2024	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open
2024/25 Quarter 2 Budget Monitoring Report	Cabinet	12 Nov 2024	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open
Quarter 2 Treasury Management Strategy Mid-Year report 2024/2025	Cabinet	12 Nov 2024	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
December					
S106 Governance	Cabinet	10 Dec 2024		Cabinet Member for Governance, Finance and Risk	Open
Tenant Representation Report To receive a report regarding co-opted Tenant Representation on the Homes Policy Development Group.	Homes Policy Development Group Cabinet Council	19 Nov 2024 10 Dec 2024 18 Dec 2024	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
The Statutory Duty to Conserve and Enhance Biodiversity	Planning, Environment & Sustainability Policy Development Group Cabinet	26 Nov 2024 10 Dec 2024	Jason Ball, Climate and Sustainability Specialist	Cabinet Member for Environment and Climate Change	Open
Devon Housing Commission Report To receive the Devon Housing Commission Report.	Homes Policy Development Group Cabinet	19 Nov 2024 10 Dec 2024	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
Planning Enforcement-Enforcement Policy Update	Scrutiny Committee Cabinet	25 Nov 2024 10 Dec 2024	Angharad Williams, Development Management Manager	Cabinet Member for Planning and Economic Regeneration	Open
2025/2026 Draft Budget Report	Service Delivery & Continuous Improvement Policy Development Group Community, People & Equalities Policy Development Group Cabinet	2 Dec 2024 3 Dec 2024 10 Dec 2024	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open
HRA Asset Management Strategy To receive the updated HRA Assets Management Strategy.	Homes Policy Development Group Cabinet	19 Nov 2024 10 Dec 2024	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Infrastructure Funding Statement- Infrastructure List	Planning, Environment & Sustainability Policy Development Group Cabinet	26 Nov 2024 10 Dec 2024	Elaine Barry, Planning Obligations Monitoring Officer	Cabinet Member for Planning and Economic Regeneration	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
Climate Strategy Action Plan To consider the Climate Strategy Action Plan	Planning, Environment & Sustainability Policy Development Group Cabinet	26 Nov 2024 10 Dec 2024	Jason Ball, Climate and Sustainability Specialist	Cabinet Member for Environment and Climate Change Cabinet Member for Environment and Climate Change	Open
National Assistance Burial Procedure To consider the National Assistance Burial Procedure	Service Delivery & Continuous Improvement Policy Development Group Cabinet	2 Dec 2024 10 Dec 2024		Cabinet Member for Service Delivery and Continuous Improvement	Open
Tenant Compensation Policy To receive the revised Tenant Compensation Policy.	Homes Policy Development Group Cabinet	19 Nov 2024 10 Dec 2024	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Corporate Performance Q2 including Dashboard; Corporate Risk Q2;	Cabinet	10 Dec 2024	Dr Stephen Carr, Corporate Performance &	Leader of the Council	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
			Improvement Manager		
Updating Election Fees	Cabinet	10 Dec 2024	Stephen Walford, Chief Executive	Cabinet Member for People, Development and Deputy Leader	Open
Update on future EPR (Extended Producer Responsibility for Packaging)	Cabinet	10 Dec 2024	Darren Beer, Operations Manager for Street Scene	Cabinet Member for Service Delivery and Continuous Improvement	Open
January 2025					
Information Security Policy	Cabinet	7 Jan 2025		Cabinet Member for People, Development and Deputy Leader	Open
Information Security Incident Management Policies	Cabinet	7 Jan 2025		Cabinet Member for People, Development and Deputy Leader	Open
CCTV Policy To receive the updated CCTV Policy	Community, People & Equalities Policy Development Group	3 Dec 2024		Cabinet Member for Quality of Living, Equalities and Public	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
	Cabinet	7 Jan 2025		Health	
Willand Neighbourhood Plan	Planning, Environment & Sustainability Policy Development Group	26 Nov 2024	Tristan Peat, Forward Planning Team Leader	Cabinet Member for Planning and Economic Regeneration	Open
	Cabinet	7 Jan 2025			
	Planning, Environment & Sustainability Policy Development Group	11 Mar 2025			
	Cabinet	1 Apr 2025			
Council	23 Apr 2025				
Green Enterprise Grants	Cabinet	7 Jan 2025	Jason Ball, Climate and Sustainability Specialist	Cabinet Member for Environment and Climate Change	Part exempt
2025/2026 Draft Budget Report	Cabinet	7 Jan 2025	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
<p>Future Waste & Recycling Options To receive a report regarding fully investigated future Waste & Recycling Options as identified at the previous PDG meeting.</p>	<p>Service Delivery & Continuous Improvement Policy Development Group Cabinet</p>	<p>2 Dec 2024 7 Jan 2025</p>	<p>Matthew Page, Head of People, Performance & Waste</p>	<p>Cabinet Member for Service Delivery and Continuous Improvement</p>	<p>Open</p>
<p>National Assistance Burial Procedure To receive and approve the updated National Assistance Burial Procedure.</p>	<p>Service Delivery & Continuous Improvement Policy Development Group Cabinet</p>	<p>2 Dec 2024 7 Jan 2025</p>	<p>Steve Densham, Land Management Officer</p>	<p>Cabinet Member for Environment and Climate Change</p>	<p>Open</p>
<p>Air Quality Action Plan To consider the report</p>	<p>Community, People & Equalities Policy Development Group Cabinet</p>	<p>2 Dec 2024 7 Jan 2025</p>	<p>Simon Newcombe, Head of Housing & Health Jason Ball, Climate and Sustainability Specialist</p>	<p>Cabinet Member for Planning and Economic Regeneration Cabinet Member for People, Development and Deputy Leader</p>	<p>Open</p>
February 2025					
2025/2026 Draft Budget	Cabinet	4 Feb 2025	Paul Deal, Head of	Cabinet Member for	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
Report	Council	19 Feb 2025	Finance, Property & Climate Resilience	Governance, Finance and Risk	
Business Rates Tax Base	Cabinet	4 Feb 2025	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open
Team Devon Joint Committee	Cabinet	4 Feb 2025		Leader of the Council	Open
Domestic Drainage Works Contract 2025-2029	Council	19 Feb 2025		Leader of the Council	
Regulation of Investigatory Powers	Cabinet	4 Feb 2025	Mike Lowman, Building Services Operations Manager	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Regulation of Investigatory Powers	Community, People & Equalities Policy Development Group	3 Dec 2024	Maria De Leiburne, Director of Legal, People & Governance (Monitoring Officer)	Cabinet Member for People, Development and Deputy Leader	Open
Regulation of Investigatory Powers	Scrutiny Committee	13 Jan 2025			
Regulation of Investigatory Powers	Cabinet	4 Feb 2025			

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
March 2025					
Blackdown Hills National Landscape Management Plan	Cabinet	4 Mar 2025	Tristan Peat, Forward Planning Team Leader	Cabinet Member for Planning and Economic Regeneration	Open
Corporate Anti Social Behaviour Policy	Community, People & Equalities Policy Development Group	25 Mar 2025		Cabinet Member for Quality of Living, Equalities and Public Health	Open
	Cabinet	1 Apr 2025			
2024/2025 Quarter 3 Budget Monitoring Report	Cabinet	4 Mar 2025	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open
Mid Devon Draft Policies and Site Options	Cabinet	4 Mar 2025	Tristan Peat, Forward Planning Team Leader		Open
Local Development Scheme	Planning, Environment & Sustainability Policy Development Group	11 Mar 2025	Tristan Peat, Forward Planning Team Leader	Cabinet Member for Planning and Economic Regeneration	Open
		1 Apr 2025			

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
	Cabinet			Cabinet Member for Planning and Economic Regeneration	
Tenancy Options Waste Services– Carlu Close To consider the future of the tenancy at Carlu Close	Cabinet	28 Mar 2025	Andrew Busby, Corporate Manager for Property, Leisure and Climate Change	Cabinet Member for Environment and Climate Change	Open
April 2025					
Tenant Involvement Strategy To receive the revised Tenant Involvement Strategy.	Homes Policy Development Group Cabinet	18 Mar 2025 1 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Housing Strategy To receive the revised Housing Strategy.	Homes Policy Development Group Cabinet	18 Mar 2025 1 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Economic Strategy 2024 - 2029	Economy & Assets Policy Development Group	6 Mar 2025	Adrian Welsh, Strategic Manager for Growth, Economy and	Cabinet Member for Planning and Economic Regeneration	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
	Cabinet	1 Apr 2025	Delivery	Cabinet Member for Planning and Economic Regeneration	
Destination Management Plan for Mid Devon	Economy & Assets Policy Development Group	6 Mar 2025	Adrian Welsh, Strategic Manager for Growth, Economy and Delivery	Cabinet Member for Planning and Economic Regeneration	Open
Tenancy Management Policy To receive the revised Tenancy Management Policy.	Cabinet	1 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Variation to Standard Tenancy Agreement That the Homes PDG recommends to Cabinet that the procedure for the variation of tenancy conditions in line with the Housing Act 1985 (sections 102 & 103) commence.	Homes Policy Development Group	18 Mar 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Asset Management Plan To receive the revised Asset Management Plan.	Economy & Assets Policy Development Group	6 Mar 2025 1 Apr 2025	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
	Cabinet				
Right to Buy Policy (New) To receive the new Right to Buy Policy.	Homes Policy Development Group Cabinet Council	18 Mar 2025 1 Apr 2025 23 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Corporate Recovery Policy To receive the updated Corporate Recovery Policy.	Audit Committee Cabinet	25 Mar 2025 1 Apr 2025	Paul Deal, Head of Finance, Property & Climate Resilience	Cabinet Member for Governance, Finance and Risk	Open
Community Safety Partnership Policy To consider the report	Community, People & Equalities Policy Development Group Cabinet	25 Mar 2025 1 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Quality of Living, Equalities and Public Health Cabinet Member for Parish and Community Engagement	Open
Single Equalities Policy and Equality Objective	Community, People & Equalities Policy Development Group	25 Mar 2025	Matthew Page, Head of People, Performance & Waste	Cabinet Member for Quality of Living, Equalities and Public Health	Open

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Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
	Cabinet	1 Apr 2025		Cabinet Member for People, Development and Deputy Leader	
Safeguarding Children & Adults at Risk Policy	Community, People & Equalities Policy Development Group Cabinet	25 Mar 2025 1 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Quality of Living, Equalities and Public Health Cabinet Member for People, Development and Deputy Leader	Open
Data Policy (new) for MDH To receive the new Data Policy for Mid Devon Housing	Homes Policy Development Group Cabinet Council	18 Mar 2025 1 Apr 2025 23 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open
Safeguarding Policy (new for MDH) To receive the new Safeguarding Policy for Mid Devon Housing	Homes Policy Development Group Cabinet	18 Mar 2025 1 Apr 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
	Council	23 Apr 2025			
June 2025					
Tenancy Strategy To receive the revised Tenancy Strategy	Homes Policy Development Group Cabinet	Not before 2nd Jun 2025 Not before 9th Jun 2025	Simon Newcombe, Head of Housing & Health	Cabinet Member for Housing, Assets and Property and Deputy Leader	Open

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SCRUTINY COMMITTEE WORK PLAN 2024-25

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
16th December 2024				
	<p>Corporate Performance Quarter 2 To receive a report from the Corporate Manager for Performance and Improvement</p>		<p>Deputy Chief Executive (S151) Dr Stephen Carr</p>	
<p>Page 129</p>	<p>Destination Management Plan To receive a report - Request to look at Data and visitor spend.</p>		<p>Director of Place and Economy Zoë Lentell</p>	
	<p>House Maintenance, emergency repairs, pollution monitoring and resident safety. Report covering Maintenance of MDH properties, emergency repairs, health of tenants, monitoring air pollution, methods of improving performance, increased air monitoring to support target goals, delivering accurate pollution figures to support the need for traffic management and future delivery of residential homes.</p>		<p>Director of Place and Economy Simon Newcombe</p>	
	<p>Portfolio Presentation from the Cabinet Member for Quality (Cost) of Living, Equalities and Public Health</p>			

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
13th January 2025				
	Review of Medium Term Financial Plan 2026 - 2031 To receive a report from the Deputy Chief Executive (S151) reviewing the Budget over the next five years		Deputy Chief Executive (S151) Paul Deal	
	Regulation of Investigatory Powers Act Annual Report To receive a report from the Director of Legal , HR & Governance (Monitoring Officer)		Maria De Leburne Maria De Leburne	
Page 10	Portfolio Presentation from the Cabinet Member for People and Development			
17th February 2025				
	Whistleblowing Annual Update To receive a report from the Head of People, Governance and Waste regarding Whistleblowing.		Operations Manager for Legal and Monitoring Matthew Page	
	Establishment Report To receive a report from the Corporate Manager for People, Governance and Waste		Operations Manager for Legal and Monitoring Matthew Page	
	Portfolio Presentation from the Cabinet Member for Governance, Finance and Risk			

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
17th March 2025				
	South West Water visit To Scrutinise South West Water		Director of Place and Economy	
14th April 2025				
	Scrutiny Chairman's Annual Report To receive a report from the Chairman of the Scrutiny Committee on the work the Scrutiny Committee has conducted over the last year.		Operations Manager for Legal and Monitoring David Parker	

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Mid Devon District Council Scrutiny Proposal Form

(This form should be completed by Member(s), Officers and / or members of the public when proposing an item for Scrutiny).

Note: The matters detailed below have not yet received any detailed consideration. The Scrutiny Committee reserves the right to reject suggestions for scrutiny that fall outside the District Council's remit.

Proposer's name and designation	Barry G J Warren	Date of referral	5 th November 2024
Proposed topic title	Examination and Review of Freedom of Information processes within MDDC.		
Link to national, regional and local priorities(Corporate Plan) and targets	<p>Compliance with Freedom of Information Act 2000 and The Environmental Information Regulations 2004.</p> <p>MDDC Corporate Plan 2024 – 2028: Involving and engaging with our communities.</p> <p>Role of Scrutiny Committee :-</p> <ul style="list-style-type: none"> Evaluating performance and progress; Highlighting areas for improvement; Reviewing services; Encourage public involvement. 		
Background to the issue	<p>A number of requests for Information are not being dealt with in a timely and open manner. Cases meet with refusal to supply information requested and Review requests usually meet with a similar negative or limited response.</p> <p>Cases referred to Information Commissioner (IC) have lead to findings against MDDC and advice on improving the processing of requests.</p> <p>This is an extract from a recent IC Decision Notice:-</p> <p><i>“The Commissioner has already advised the Council of his concerns regarding the particularly poor arguments provided in its correspondence with the complainant regarding its reliance on section 40(2). Although this information has now been disclosed the fact that this has required the intervention of the Commissioner has considerably delayed disclosure. The Council should ensure that its responses to requests for information and any subsequent internal reviews are of a suitable quality and demonstrate an appropriate understanding of the legislation.”</i></p>		
List main points this report should cover (What do you want to achieve?)	<p>Training of staff to achieve “an appropriate understanding of the legislation” to enable proper processing the requests and the undertaking of reviews.</p> <p>Appropriate Staffing levels.</p> <p>Appropriate time taken for responses (not just the legal maximum).</p>		
Should this be referred to the appropriate PDG/ Committee?	<p>This will be a matter for Scrutiny Committee but would best be decided by examination of processes, discussion with relevant officers and findings/recommendations by Scrutiny Committee to Cabinet and subsequently to the Chief Executive.</p>		
What degree of priority is this issue? 1 = Urgent 2= High 3=Medium 4=Low	2	Page 133	

Proposing an item for the Scrutiny Committee Work Programme

