

Public Question Time

Paul Elstone

My questions fully relate to Item 9 – the 2022/23 Revenue and Capital Outturn Report and Tables.

I have questions on the Leisure VAT refund of two million nine hundred and ninety-eight thousand seven hundred pounds (£2,998,700) referred to at paragraph 3.5.6, on page 13 of the papers, and shown in the Corporate Management Table, on page 28, under 'Major Changes to Income Levels':

Question 1

What exactly is the reason for the Leisure VAT Refund, referred to in the report, being repaid?

Answer:

Please refer to the HMRC Policy paper of this subject which explains in full the change in VAT treatment of leisure services provided by local authorities.

<https://www.gov.uk/government/publications/revenue-and-customs-brief-3-2023-changes-to-vat-treatment-of-local-authority-leisure-services/changes-to-vat-treatment-of-local-authority-leisure-services>

Question 2:

Who is refunding, to the Council, the Leisure VAT Refund, referred to in the report?

Answer:

The refund will be received from HMRC once they have audited our claim.

Question 3:

What period does the Leisure VAT Refund, referred to in the report, cover?

Answer:

Our claim dates back to 2011.

Question 4

Has the Council actually received the Leisure VAT Refund, referred to in the report?

Answer:

No, it is currently being audited.

I also have questions on the Zed Pod Modular Housing Units referred to in this report at paragraph 7.8, on page 20, and in the table on Page 53.

Question 5:

Will the Council please provide a detailed breakdown of the £500,000 additional spend required for the Shapland Place and St Andrews Estate Modular Units referred to in the report?

Answer:

The question was asked previously by Mr Elstone at the Cabinet meeting on 7 March 2023. A written response was provided in full at the time including a breakdown of additional costs associated with these projects. This is available at:

<https://democracy.middevon.gov.uk/documents/b5406/Written%20Answers%20to%20Public%20Questions%2007th-Mar-2023%2010.00%20Cabinet.pdf?T=9>

As reported on 7 March, there is likely to be significant net underspend for each project. Item 9, Appendix 4 of the Homes PDG report 13 June also sets this out in full, setting out a projected net underspend for each project of £375k and £442k respectively.

Question 6:

Other Councils have had modular homes erected very quickly, but in this Council, delays have meant substantial inflationary contract price rises.

The table shows expected completion dates for St Andrews as Q2 23/24.
For Shapland Place as Q4 23/24 –

Can it be fully explained why these Modular developments are taking so very long to complete and whether these completion dates are reliable given not even the groundworks at St Andrews has been started?

Answer:

Information on delays to the St Andrews scheme have been provided to members previously. Groundworks have commenced and are nearly complete however local delays caused by an unmapped gas main have prevented the final few weeks of groundworks being completed and put a temporary halt to the whole project. Until the main is diverted then our works cannot safely and legally be completed and therefore the units cannot be commissioned on-site. The diversion works must be agreed and scheduled by the statutory gas utility company (Wales and West) and cannot be carried out until this is in place. The Council and its contractor have been seeking agreement and resolution with Wales and West for over six-months.

To provide more detail; groundworks commenced at St Andrews last autumn and advance mapping records provided by Wales & West on request showed there were no live gas mains under the site. The site was also CAT scanned for all utilities as a final check before groundworks commenced, however the low resistance of gas mains makes these pipes difficult to detect. No pipes/utilities were remotely detected in the relevant areas. On 12th December 2022 a gas main was physically uncovered and damaged during foundation excavation and an emergency repair carried out by Wales and West. Further contact was immediately made with Wales and West requesting investigation and resolution but no response was received until 9th January 2023.

In the following weeks Wales & West inexplicably denied ownership of the main or any responsibility despite the error being clear on their mapping together with the fact that the company having carried out the emergency repair and there being no other gas main provider. This caused further delay.

The gas main runs directly through new build footprint and consequently on-site works are at a standstill and the scheme cannot be completed. Once Wales and West finally accepted responsibility they provided a deadline that a diversion would be completed within 130 days. This was an unacceptable target in the first instance for what is a live, priority scheme, however over 180 days (around six-months) have now passed since the main was found and no works have been scheduled.

In the intervening months, Mid Devon and our contractors have provided all requested information, agreed new routing for the main and supplied full details to enable the required easements to be put in place in a timely manner. Since the 4th April 2023, a signed acceptance has been in place and either the Council, Zed Pods or the appointed contractor for the works have been in almost daily contact with Wales and West seeking confirmation of a start date, unfortunately with limited response. Without this local issue, the scheme would have been complete and tenants moved in by 31 March 2023 at the latest which was the original project target.

On the 1 June, Stephen Walford (MDDC Chief Executive) and Cllr Simon Clist (MDDC Cabinet member for Housing) wrote a joint letter to the Chief Executive of Wales and West highlighting this unacceptable, lengthy and ongoing delay by the company and the significant impacts of this. The letter requested that a priority diversion date be provided imminently and on-site works completed within a matter of weeks to minimise further harm and cost. The Council have since received contact from Wales and West solicitors with relevant documentation to complete the easement and therefore finally facilitate the diversion. This was completed urgently and very efficiently by our own in-house legal team and the easement has now been signed and sealed by both parties. We therefore anticipate receiving a diversion date soon and continue to press for progress.

As Wales and West (and not the Council) are responsible for approving, scheduling and meeting the costs of diversion works in this situation then the Council is considering a referral to the Energy Ombudsman over the matter. This would highlight the failure by West and West to map their main accurately and their unacceptable delay in resolving the matter leaving Mid Devon unable to provide the much needed social housing as planned. Our priority is to complete the scheme as soon as we're able to do so and then review this further once the full delay is known.

In the meantime, the construction of the modular housing units by Zed Pods has been complete for some time. These are under storage at the factory awaiting transport to site when groundworks are complete. As legally required, the units have been formally approved/certified by Building Control and are ready to install. The gas main problem is a local issue which would have prevented any type of construction and build from continuing. However, once resolved, the modular design enables us to complete groundworks and deliver/commission then occupy the housing much quicker than a traditional build scheme which would still face many months of work before completion.

We are using the same groundworks contractors for Shapland Place so the St Andrew gas main delay may cause some issues however that project is not significantly delayed as yet. Meanwhile, we have instructed the contractor to begin groundworks at Shapland during June and hope to move them back to St Andrews soon after, subject to the diversion being complete. Off-site construction of the Shapland units has also commenced.

Question 7:

Can the Council fully explained why these Zed Pod modules are seen as good value, when they cost considerably more than a conventional built home, need more maintenance, have a shorter life expectancy and take longer to build?

Answer:

These units do not cost more than a traditional or conventional build homes and compare favourably. Where we have incurred additional costs on particular projects we have highlighted where these have arisen and why these are not specific to modular build in general or Zed Pods specifically.

The Zed Pod units do not need more maintenance and will actually require less due to their design, regularity and build quality.

As we have previously confirmed, the Zed Pod units fully meet independent BOPAS (Buildoffsite Property Assurance Scheme) Lloyds Register accreditation and mortgage standards. This overall quality accreditation was a requirement of our procurement process and also of Homes England (as a condition of grant funding we have received for the Shapland Place project). The Zed Pod schemes we have commissioned have a 100-year design-life, which is better than that provided by many traditional house builders including major, high-volume national companies.

Question 8

Will this committee fully investigate whether the revised module designs, at Shapland Place, meet the Governments Minimum Floor Space Standards and the Building Regulation Overheating risk mitigation requirements?

Answer:

These questions have been previously asked by Mr Elstone and written responses were again published in relation to the Cabinet meeting on 7 March and available via the link provided above (Q5).

Nonetheless, to summarise information provided earlier, with regard to space, plans have been provided to confirm that all units do indeed meet minimum floor space standards with a full breakdown of the floor space in m² for each 1, 2 and 3-bed unit in comparison with the specific requirements. As previously set out, this information was verified through the planning process before any grant of permission by Planning Committee.

With regard to Building Regulations and overheating, as we have explained before, this relates to the new document O requirements which took effect on 15 June 2023. It does not apply to work subject to a building notice, full plans application or initial

notice submitted before that date, provided the work for each building is started before 15 June 2023, as is the case here.

Therefore, Shaplands Place does not fall under this regulation. However, Zed Pods were keen to assure that they have been designing buildings with overheating in mind for many years, in anticipation of a change in regulations. Shaplands Place therefore meets the requirements in any case as set out in the Part O requirements: 2.7 Limiting Solar Gains, and 2.10 Removing Excess Heat with detail provided previously on the site specific mitigation strategies that have been employed to reduce any overheating risk.

Paul Deal, Corporate Manager for Finance
(Q1-4)

And

Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing
(Q5-8)

22 June 2023.