

Responses to Public Questions asked at the meeting of the Scrutiny Committee on Monday 15 January 2024 but not provided in sufficient time for a response to be provided at the meeting.

Louise Doyle

QUESTION 1 – KPIS

The Enforcement service is not meeting the needs of residents, or creating public confidence, or acting as a deterrent, I believe that needs to change. The Local Planning Authority's (LPA) approach appears to be enforcement averse, going beyond expediency or discretion or regularisation first.

Reporting new or closed or total case numbers is not a KPI
Will the LPA be creating measurable objectives, targets, timelines it can be measured against?

Answer: The LPA has established KPI performance measures and intends to continue to monitor performance against these.

QUESTION 2 – TRANSPARENCY OF CASE MANAGEMENT

Can a spreadsheet/breakdown of cases for the last two years be provided to Scrutiny or Planning so that elected members can have an insight into how cases are being categorised, investigated and closed?

Answer: Enforcement activity is legally privileged and so the Authority will not be sharing details of cases. The Cabinet Member for Planning and Economic Regeneration has member oversight of the enforcement function and provides member input where required.

QUESTION 3 – ENFORCEMENT NOTICES ISSUED

The LPA advised Scrutiny in July that 25 Notices had been recently been served. The DLU figures for the year to September showed 15. Which data is correct please? How many Notices have been issued since and the total case numbers being quoted, are they opening numbers at the start of the quarter or closing numbers?

Answer: Both sets of data are correct, but they relate to differing timetables.

QUESTION 4 – ENF POLICIES 1-6

Does the LPA consider that it is working and planning to work in the future based upon what it is proposing today in alignment to Mid Devon's Enforcement Policies ENF 1 to ENF 6? I believe there is a disconnect and can anybody tell me what happens to the revised enforcement plans that was handed to the DM at the end of 2022.

Answer: The LPA does absolutely consider that it is working in alignment to the Mid Devon Enforcement plan and policies, in accordance with established best practice

and the law. The enforcement plan is currently being updated with the intention of adopting a revised policy at the earliest opportunity.

QUESTION 5 - 95% LOW PRIORITY CASES

The Enforcement Plan categorises Low Priority Cases as very minor breaches. 95% of cases are being categorised as low. That, to me, is surprising. Can the LPA confirm that all 260 low cases sit squarely within the description given to “low priority” in the Enforcement Plan? How is “limited harm” being defined?

Answer: The Authority is comfortable in its classification of cases. Examples of limited harm are illustrated within the current Enforcement Policy and include matters such as a technical breach of planning control where works are marginally above permitted levels or where unauthorised advertisement takes place in less sensitive locations.

QUESTION 6 – WHAT HAPPENS TO 95% LOW PRIORITY CASES?

The LPA states it must prioritise high-risk/impact breaches because it is not equipped financially or in terms of staff to address every breach. What exactly does this mean in real terms in respect of the investigation and resolution of low or medium priority cases, which represent 98% of cases?

Answer: In relation to low priority cases; the authority seeks to consider these as soon as it is able. As you might be aware from the Scrutiny meeting on the 15th January 2024; the Authority is currently seeking to utilise surplus capacity within its planning (Development Management) officers to consider low risk cases in order to ensure that these are considered as promptly as possible

QUESTION 7 – BREACHES OF CONDITIONS

Planning Conditions are to mitigate or control some aspect of a development. Each is required to meet the 6 Tests including being necessary. When Conditions are then promptly breached or not discharged - impacting on amenity - why is the LPA not enforcing what the LPA considered to be necessary at the grant of consent?

Answer: The LPA is enforcing conditions – bearing in mind, of course, that any enforcement must always be proportionate and that the Authority will normally always seek to encourage compliance in the first instance

QUESTION 8 – FROM BAD TO WORSE

Who made the decision in the autumn to run enforcement service and 300 cases with one officer and now with a temp and template letters?
Upon what rationale will that provide an effective service?
How many hours per week of planning officer time will be made available to deal with enforcement matters?

Answer: The decision to run the service with one officer was the consequence of an officer resigning and the Authority not being able to recruit a replacement, despite attempts to do so. The decision was also made in light of the Council’s financial position and the corporate requirement to achieve ‘vacancy management’ savings in order to address in-year financial pressures and support the Council in achieving a balanced financial position.

The intention was always to review the position in relation to enforcement after a suitable period of time and consider resourcing within the team. Ultimately, decisions relating to staffing of the service are made by the relevant Director (in this case, the Director of Place and Economy) and the wider Leadership Team.

The approach that has been adopted (one enforcement officer plus input from planning officers, where appropriate) as it is felt that this will support the effective operation of the service. Utilising capacity within the DM service is a good use of council resources.

It is not possible to give a figure of the number of hours freed up on a weekly basis as this clearly varies with case load and service demands.

QUESTION 9 – ATTRACTING & RETAINING TALENT

The enforcement salary on offer is £16 to £17.50 an hour. This is not going to attract or retain talent in Mid Devon. The temp enforcement officer job is being offered at £40 - £50 an hour. Wouldn't it be better to invest in full time staff at a far more generous salary?

Answer: Any salary for the enforcement officer has to be in accordance with MDDC policies and be fair and reasonable within the context of the wider Authority. Equally, it has to be reasonable and comparable within the market place for permanent staff. Contractors (agency staff) are always paid at a higher level owing to the fact that the roles are temporary and the contractors do not benefit from other benefits such as pensions, sick pay and holiday entitlements etc. The Council seeks to minimise reliance upon agency staff wherever possible in order to safeguard the financial position of the Authority.

The Chairman pointed out that as an LPA, Mid Devon District Council does not have a statutory duty to enforce but does it as it believes that it has a duty of care to its residents. The Chairman further, indicated that as these questions had not been received two clear days in advance of the meeting that a written response would be provided.

Responses provided by the Director of Place and Economy

Paul Elstone

The next two questions relate to answers received to my question of the Scrutiny Meeting of the 18th December 2023

Question 4

Answer to Question 1 states.

Quote:

“The Council would like to make it explicitly clear that there has been no officer threats”

The MDDC Officer letter I refer to in my question, the last sentence says the following.
I ask that any further disclosures cease with immediate effect. If this does not occur then we will have no alternative but to take further action which may include a court application for an injunction/reporting for a criminal offence under S170 Data Protection Act 2018.

Will the Committee Chairman agree that the answer to my Question 1 be struck out as it is not fact and can be considered defamatory.

Answer: This is an explanation of the process that the council may need to take, should data not be managed appropriately in future. The council was required to report this incident to the Information Commissioner, therefore it is right that we advised you of the potential consequences of your actions.

Question 5

The answer to question 5 says:

“Council officers are not aware of the email being referred to”.

Are the current Council Leader and Deputy Leader also saying they are not aware of the document in which they are both named. A document dated the 17th February 2020 and directed to this Councils CEO?

Answer: The response provided by officers at the meeting was accurate.

Responses provided by the Chief Executive