

Scrutiny Committee- Public Questions and Answers

Mr Nick Quinn	Paragraph 3.2 of this report, describes the partially upheld Decision Notice by saying: <i>“information was considered subject to legal professional privilege, but two of the five individual names redacted would have had a reasonable expectation of their name being placed in the public domain”</i>. I think that this sentence could be considered as “Economical with the Truth”. It says the some redactions were allowed and the release of two names was ordered - but that is not all... It does not say that the Council was also ordered to release additional, wrongly redacted, information - or that 78 pages of information was released, on the advice of the Commissioner, prior to the Decision Notice being issued. I have it on good authority that the request for a report was made in May 2024, but the Council said <i>“it was all exempt”</i>. When asked to review, the Council maintained that nothing would be released. A complaint was sent to the Information Commissioner, who contacted the Council about how the request had been handled. The Council then released: - a 14 page report (with some redactions); - a 38 page Appendix (with minor redactions); - a 24 page Appendix (with very minor redactions); - and a 2 page Appendix (with no redactions at all). Then in February 2025, after a total of nine months, the Decision Notice was issued. Question 1: Does the Committee consider that this sentence, in the report, accurately reflects that 99% of the requested information was released? <i>Response from the Scrutiny Committee Chair:</i> <i>The Committee understands that the ICO findings were briefly summarised and salient lessons identified.</i> Question 2: Does the Committee consider that this report informs Members of the problems that the public can have in obtaining information from this Council?
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	<i>Response from the Scrutiny Committee Chair:</i> <i>As can be seen from the dashboard, most requests were responded to in a timely manner and done so fully. Only a small number were exempted fully. The vast majority of requesters are satisfied with the responses provided. Not all information is disclosable. The report summarises those instances where the Council made an administrative error or misapplied the legislation for exempting information as was requested by the Committee.</i> Question 3: Does the Committee consider it acceptable that a requester has to call in the Information Commissioner and wait nine months, in order to get 99% of the information requested? <i>Response from the Scrutiny Committee Chair:</i> <i>The Council took the opportunity to consider subsequently disclosing information in light of the closure of the 3 Rivers development company. The ICO accepted the subsequent disclosure in their decision notice. The Committee cannot comment on the length of time the ICO takes to deal with cases.</i>
Mr Barry Warren	Question 1: Is the time schedule set out in paragraph 3.1 in agenda item 8 report still considered to be achievable? <i>Response from the Scrutiny Committee Chair:</i> <i>Yes we believe so.</i> Moving to item 9, I must declare an interest in the cases set out at paragraphs 3.3 and 3.5 and the questions I now raise would benefit from an answer but I would hope that in researching the answer the officer could assure members that lessons could be learned to prevent a repeat of the issue in the future. Question 2: In the case at 3.3 the original request was for two documents and the response made no reference to one of them. A review was sought and again that document was not dealt with. Why was this request for a document completely ignored twice?

Response from the Scrutiny Committee Chair:

The council applied the section 43(2) exemption response to all the requested information. The terms of reference were released on consideration of the complaint as the council is allowed to do. The ICO decision and corresponding Tribunal Decision are now concluded and lessons learned.

After the intervention of the Information Commissioner the ignored document appeared before the release of his final decision on the main document. Redactions were made to the main document contrary to the instruction of the Information Commissioner and the Council applied to a Tribunal to retain the redactions. The Tribunal did not take its full course as there was no point since the information redacted was elsewhere in the report unredacted.

Question 3: What procedures are being put in place to ensure that more care is being taken over understanding the requests made and ensuring all matters raised are addressed rather than some being ignored?

Response from the Scrutiny Committee Chair:

In most instances the requests are clear, and responses made appropriately. Responses are revisited upon a review request or as part of an ICO decision and added to the Lessons Learned log to assist staff in delivery of future responses. Clarification is sought from the requestor if the enquiry is unclear.

The case referred to in 3.5 resulted in the Information Commissioner issuing a Decision Notice for compliance by MDDC who did not fully comply with it. The case has been referred back to the Information Commissioner and given a new reference. I am aware that the Information Commissioners Office has contacted MDDC and a new Decision is still awaited.

Question 4: How will this case be reported to Scrutiny Committee as it is not closed at this stage?

Response from the Scrutiny Committee Chair:

The committee will not comment on pending ICO cases. These are ongoing formal processes and beyond the remit of the committee. This was discussed and agreed at a previous Scrutiny meeting in 2024. Any findings against the council will be reported as arranged through the monitoring report.

Mr Paul Elstone	I have 3 questions, and which relate to Agenda Item 10 Modular Home Value for Money Benchmarking Report. I feel certain the Housing Officer will provide this Committee with a raft of reasons as to why he considers this Councils investment in ZED POD's modular homes has provided NETT best value and come across as convincing when doing so. I maintain a position Benchmarking Report being used to justify this position is fundamentally (fatally) flawed. I hope you ALL have taken the opportunity to read the document plus attachments I have provided well in advance, and which details these fundamental flaws. Question 1 The NETT COST calculations per square meter show that the Bristol Category 2 MMC development is by far the best value. That the NETT COST per square meter of the Croft Estate – Sandford Development is 66% more expensive. Shapland Place is 58% more expensive. This when everything including grant funding is normalised. The Gross Internal Floor Area for the Bristol Development is 1,350 square meters yet the report calculation only equates to 900 square meters. There are similar and very major calculation errors for the Eastleigh development seriously impacting the accuracy of the value for money benchmarking results. Please explain the FULL reason for the 900 square meter calculation error. An error which seriously distorts BENCHMARKING results ? Response from the Scrutiny Committee Chair: <i>To restate the full response already provided to the questioner in respect of a Public Question they raised at the Homes PDG on 3 June 2025 on the same matter:</i>
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In respect of the stated m2 for the Bristol New Kingsland development, the figure being quoted in the question is the gross internal floor area for the entire development i.e. 1,350m2. As set out in Table 1 of the report, all of the m2 calculations used in the report are based gross internal liveable floor area in m2 – this is a conservative approach as it excludes communal areas, stairwells, bin stores, landings etc resulting a per m2 cost for the overall project that is higher in relative terms. Some adjustment was therefore required where only gross m2 data was available for the external schemes used for benchmarking. Consequently, in order to compare projects on a closer to ‘like for like’ basis i.e. internal liveable floor area, when benchmarking against the Bristol New Kingsland scheme the stated net cost per m2 of £3,724 is calculated on an adjusted figure of 900m2. The resultant, comparable net cost of the Bristol scheme is therefore higher than the equivalent net m2 costs for all of the Zed Pod projects within the report.

Even if the less comparable gross m2 area figure is used as the basis of the cost per m2 benchmark, the Bristol scheme is still higher in cost than a number of the Mid Devon Zed Pod projects which also have a higher energy performance specification (EPC A/zero-carbon), as further set out within the report.

Consequently, this is not a calculation error.

Question 2

This Council has a recent history of making DISASTOROUS FINANCIAL decisions and related to Housing Projects.

3 RIVERS including but not limited to St George’s Court

POST HILL - Land acquisition and disposal.

KNOWLE LANE - Land acquisition.

Answers to questions asked at a Parliamentary Committee on the 4th March this year stated the following.

Quote

“I have just come out of a meeting yesterday looking at Councils use of MMC and what the barriers were. They had a pretty negative view. Almost all council development people around the table had tried and were not going to do it again”.

Unquote.

*Also, and I again quote ‘ **we’ve been bitten. We are not doing that again**’ This with regard to build cost, financial exposures plus build quality.*

I contend this Council has already been ‘BITTEN’ and by both COST and QUALITY. That it has not given full consideration to its financial exposures.

Why does THIS RELATIVELY SMALL COUNCIL with limited technical resources plus financial reserves think it can deliver something very different compared to LARGER Councils and in doing so GUARANTEE there will not be yet ANOTHER FINANCIAL MISTAKE. A DISASTER ?

Response from the Scrutiny Committee Chair:

The purpose of the report is clear, in that it provides an assessment of value for money and best practice in the delivery modular housing projects within the Council’s social housing development programme. Based on a full consideration of this report, the Scrutiny committee recommended to the Council’s Cabinet (draft minutes) as follows:

(a) the report be NOTED

(b) that Cabinet continues to adopt an HRA development programme with a focus on delivering MMC, modular net-zero social housing where possible and viable as part of the Council’s future Housing Strategy.

Furthermore, the Committee also based its recommendation on the successful delivery of a number of housing projects including the Zed Pod St Andrew’s House, Shapland Place and Crofts schemes already occupied. The Council has a strong pipeline of projects with full planning permission that meet the key value for money and viability assessment criteria as discussed in detail within the report with a number of these projects currently live and moving forwards to successful completion.

As the report also sets out, the ability of the Council to deliver cost-effective, value for money social housing has been determined by Homes England (the Government’s primary housing and regeneration agency). Sections 1.15 and 1.16 of the report highlight the Council’s status as a ‘continuous market engagement’ delivery partner with Homes England. This partnership enables the Council continued access to the Affordable

Homes Programme (AHP) post-2026 facilitating grant funds for more schemes that will complete much later (by March 2029). This provides the Council with ongoing, more seamless and extended access to AHP whilst a future AHP scheme is developed. This is very much a vote of confidence in our development programme and our track record of successfully in delivering new, high quality social housing with schemes that meet the Homes England value for money benchmarks.

Question 3

My final question and one Chair I hope you will allow me to complete uninterrupted given it relates to health and well-being concerns for infants, the infirm and the elderly.

I have previously raised concerns about the potential of high temperature, overheating risk, at the Shapland Place development. Concerns which have been dismissed.

Concerns raised given resident's experiences at a ZED POD development in Bristol and after internal temperatures of over 36 degrees C being reported.

At the Homes PDG meeting a Shapland Place resident and who is a single parent with a young child advised that they had already suffered uncomfortable temperatures as high as 30-degree C. Even feeling it necessary to fix a thermometer to an internal wall.

High temperatures this DESPITE them opening windows. Windows known to have limited cross air (cooling) flow capacity.

With an internal temperature of 30 degrees C in May what will it be in a July or August heatwave ?

It may not be commonly known but room temperatures above 22 degrees C have been attributed to SUDDEN INFANT DEATH SYNDROME.

A Housing Officer was very quick to state that the problem was a poorly functioning air handling system.

Also saying HIGH TEMPERATURES where a downside of highly insulated homes. Failing to reference the very high percentage of glazed areas including in bedrooms that Shapland Place has. There are other issues.

How could any MDDC Officer be so certain that the Air Handling Unit is the real cause of the problem.

I say this as a CABINET MEMBER response to a question I asked about this Council having a copy of the ZED POD Overheating Assessment Calculations for Shapland Place was that the document was in their possession.

Yet a further response to an FOI Request and where I asked for a copy of the overheating assessment to be provided NOW SAYS THEY DO NOT HAVE IT.

Very Important to say that the solution of the high temperature problem in Bristol was for the residents to open the windows. It WAS NOT the Air Handling System operation. Therefore, the root cause of the Shapland Place high temperature may be of FAR greater significance and concern.

The Report Table at paragraph 2.3 states ZED PODS “Meet or Exceed Overheating standards” Why is this stated if the Council does not have the proof of compliance in its possession ?

Response from the Scrutiny Committee Chair:

As is clear within the report, all of the Council’s developments have full planning permission with documented sign-off on relevant conditions and full Building Regulation approval. These are the primary, legal points of reference and proof regarding compliance with the required design and build standards.

Annex A of the report sets out more detailed information on all the key design and quality assurance standards that underpin Zed Pod modular homes. This includes confirmation all Zed Pod buildings exceed Building Regulation Part ‘O’ requirements and include both passive and active cooling technologies where required. The demonstration of is completed through Dynamic Thermal Modelling assessments as required following the full Chartered Institution of Building Services Engineers (CIBSE) TM59 Design methodology.

This is just one of the many building standards met by our developments that are included within the full scope of grant of the full Building Regulation approval. Such approval can only be granted by an independent, registered and approved Building Control provider as is therefore the case with all of our developments. As noted above, grant of full approval is the Council's proof of compliance where the Council does not need to hold a copy of every specific assessment and other items of documentary evidence provided by a contractor to Building Control for Building Regulation approval purposes. Furthermore, there is no formal handover of a development into the Council's control unless this overarching approval and building warranties are in place.

The experience of one tenant at the Shapland Place development regarding their heating, as discussed at the Homes Policy Development Group on 3 June 2025, is being confirmed as a fault with individual system at that property with a potential element of tenant error where it is evident the system isn't operating normally. Any fault will be corrected and we will make sure the tenant is confident in the operation of the system.

Consequently, it is erroneous to state or imply within the question that there are design or build related overheating problems or indeed any non-compliance with Building Regulations with regard to any of the Council's residential developments including the Zed Pod schemes. This has previously been clarified in detail with the questioner on a number of occasions and further reiterated within this report as summarised above.