

## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **SCRUTINY COMMITTEE** held on 23 May 2016 at 2.00 pm

### **Present**

#### **Councillors**

F J Rosamond (Chairman)  
Mrs H Bainbridge, Mrs A R Berry,  
Mrs G Doe, R Evans, Mrs S Griggs,  
T G Hughes, Mrs J Roach, J L Smith,  
T W Snow and R Wright

### **Apologies**

#### **Councillor(s)**

Mrs C P Daw and N A Way

### **Also Present**

#### **Councillor(s)**

R L Stanley, C J Eginton and Mrs M E Squires

### **Also Present**

#### **Officer(s):**

Stephen Walford (Chief Executive), Amy Tregellas (Head of Communities and Governance and Monitoring Officer), Jenny Clifford (Head of Planning and Regeneration) and Julia Stuckey (Member Services Officer)

## **1 ELECTION OF VICE CHAIRMAN**

**RESOLVED** that Cllr T G Hughes be elected Vice-Chairman of the Committee for the municipal year 2016/17.

## **2 APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr Mrs C P Daw and from Cllr N A Way who was substituted by Cllr R Wright.

## **3 PUBLIC QUESTION TIME**

Mr Pocock, referring to item 9 on the agenda, said we welcome the report which we feel starts the process of answering some of the concerns about planning and enforcement decisions but we have the following questions;

Why is there nothing on the audit of the consistency of decisions both with respect to other planning departments and the need for similar internal audit within your own department which could possibly reduce the risk of legal challenges and judicial review? The audits in the report are mainly tick box number exercises which say nothing about the robustness of decisions.

With respect para 4.9, if a planning restriction is regarded as trivial why include it in the conditions of planning acceptance?

Why is there nothing in the report of the importance of enforcement decisions being in line with planning regulations and where breaches are apparent it should be mandatory that enforcement is applied? If it is not considered appropriate then the risks of litigation or judicial review should be assessed. However the fear of an appeal should not be a reason to approve an application.

Why is there nothing about an agreed and specific timescale for responses to queries about planning matters including decisions and enforcement?

We hope these questions will help you alleviate many of the concerns from both the public and councillors and potentially reduce your long term risks.

The Head of Planning and Regeneration replied that arrangements had already been put in place for an internal audit to take place during 2016/17 though the Chair of the Audit Committee pointed out that an audit would review process, systems and method rather than individual cases.

Regarding triviality of breaches the Head of Planning and Regeneration informed the Committee that she was working with officers to ensure that only necessary conditions were added to planning consents. With regard to the risk of Judicial Review she stated that it would be remiss of officers not to inform Members of the risk but that this should not fetter decision making.

#### 4 **MEMBER FORUM**

Cllr Mrs J Roach asked for reassurance that a report regarding Safeguarding would be on the agenda for the next meeting of the Committee.

The Head of Communities and Governance confirmed that the report would be on the agenda for the meeting on 18<sup>th</sup> July 2016.

#### 5 **MINUTES OF THE PREVIOUS MEETING**

Subject to changing the wording "high level verbal summary" at Minute 155 to read 'verbal update' the minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

#### 6 **DECISIONS OF THE CABINET**

The Committee **NOTED** that none of the decisions made by the Cabinet at their last meeting had been called in.

#### 7 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman welcomed Members to a new year of Scrutiny and said that he looked forward to their contributions.

The Chairman informed the Committee that the agenda for the next scheduled meeting of the Committee was light and Member Service's staff would be busy assisting with the EU Referendum and he therefore asked for the Committees approval to cancel the meeting. This was **AGREED** and therefore the next meeting of the Committee would be on 18<sup>th</sup> July 2016.

## 8 PORTAS 00.16.00

The Chairman welcomed members of the PORTAS Executive, Cllr S Griggs, Mr P Young, Mr M Freeman and Mrs B Lester, to the meeting and explained that it was within the role of the Scrutiny Committee to look at organisations in receipt of public money in order to give them an opportunity to be accountable.

Cllr Mrs Griggs outlined the vision of PORTAS which was to regenerate the town centre and bring vitality to the town. Tiverton had been awarded funding in the second tranche of awards with the aim of turning around an unloved and underused high street. Cllr Griggs stated that she believed that this had happened and that that town had received an uplift in the last 5 years with more events taking place. This was not just due to PORTAS but she considered that the apathy that was previously in the town had now gone and that the work undertaken had proved that the town could shine.

Cllr Griggs informed the Committee that the Group had achieved over 50 areas of improvement to help improve footfall in the town. Original plans were to improve car parking, set up a coach park, an attractions pass, a shoppers loyalty scheme, new town signage and an internet shopping pick up location for the town.

Group members had tried to set up an attractions pass but this had not proved to be successful and the shoppers loyalty scheme had not taken off. Internet shopping pick up locations were now in place, as was the coach parking bay. Cllr Griggs did not consider that the recent changes to parking fees would help. New welcoming signs had been placed at the major entrances to the town. Ongoing work included the implementation of a hand map, a town centre colouring book and the CreaTIV hub shop continued to prove to be popular. A Cooperative shop for local artists that PORTAS set up in the town had proved successful in showcasing local talent and had resulted in several artists going on to open their own shops and exhibitions.

The group were asked who their members were and how they were selected. Cllr Griggs explained that initially they were a group of 4 volunteers who wanted to see Tiverton prosper. There was now a team of 5 with other volunteers that could be called on for specific events. Cllr Griggs added that the group would work with anyone, were continually asking people to join and were open to this. She explained that the Department for Communities and Local Government (DCLG) had approved their method of working with a small team when other areas with larger teams had failed.

When asked about the relationships between the group with Tiverton Town Council, with Mid Devon District Council and with the Town Centre Manager Mr Young stated that they were in regular contact with Town Centre Manager and that three of their members were also Town Councillors so communication with them was good. Mr Young said that they would like to work more with these groups and asked if there was a Business Improvement District (BID) available. The Head of Communities and Governance explained that a number of local businesses had joined to form a group and had set up a Town Centre Partnership. She explained that there was a need for buy-in from local business to move forward with the BID and the local businesses concerned did not feel that they wanted to pursue this at the current time. Mr Young stated that PORTAS would be pleased to meet with all of these groups. The Head of

Communities confirmed that the Town Centre Manager was working hard to bring these groups together. She also informed the Committee that herself and the Cabinet Member for Planning and Regeneration were in regular contact with these groups.

Discussion took place regarding car parking charges and the Chairman of the Audit Committee informed the Committee that since April vends had seen an increase of over 2500 on last year in Tiverton car parks and that income had increased by £11k. Dwell time was discussed.

Cllr Griggs stated that concessionary parking had been agreed for the Food Market events arranged for Saturday evenings in the summer but had not been made available for PORTAS events. The Leader of the Council pointed out that concessionary parking was provided in the lead up to Christmas.

Cllr Griggs confirmed that there was £39,820 remaining in the PORTAS funds and that spend was planned for the Feast of St James and the literary festival. A community radio station was an ongoing project, there were plans in place for a Christmas event/winter festival, signage for Westex, a hand map and an art trail which was being discussed in liaison with the Mid Devon Museum.

The Chairman thanked the group for the good work they had undertaken.

## **9 PLANNING AND ENFORCEMENT IMPROVEMENT 00.50.20**

The Committee had before it a report \* from the Chief Executive regarding the Planning and Enforcement Service.

At a previous meeting of the Committee the Chief Executive had been asked to investigate the efficacy and effectiveness of the Planning Service, with particular reference to the way enforcement was carried out and how members were engaged with the work of the council in this service area.

The Chief Executive outlined the contents of the report which gave context to the current situation, flagged the importance of keeping Members informed and provided recommendations to enable future improvements.

Discussion took place regarding:

- Income generation and whether it could be possible provide a service to others;
- Breaches that required investigation;
- Whether or not all breaches were real or perceived and public expectation;
- Triage of breaches;
- Whether Planning Officers should undertake enforcement duties or whether it was best served as a separate role;
- Whether Planning Enforcement Officers should work in geographic areas or on a unitary basis;

- The extra work that would be generated to provide regular updates to Members and how it was hoped that this could be an automatic report from the IT systems;
- An additional post in the Legal Team was currently being advertised and it was intended that a Planning Solicitor be appointed;
- The Audit Team had added an internal audit to their programme;
- Methods of updating the public and town and parish councils;

It was **RECOMMENDED** to Cabinet that the following be noted:

- a) The Head of Planning & Regeneration bring forward the Local Enforcement Plan for Cabinet to consider as a matter of priority to set the framework for enforcement activity at MDDC.
- b) The Head of Planning & Regeneration ensures that staff within the enforcement service are invested in through additional training to help provide them with the necessary confidence about sharing information with members (with reference to Data Protection Act constraints).
- c) The Head of Planning & Regeneration take steps to appoint additional resource specifically into the enforcement team to clear any real or perceived backlog, and that consideration be given to the merits of operating this service as a discrete entity to share knowledge, expertise and resource (as opposed to the current area-based model).
- d) The Head of Planning & Regeneration ensures that 'Part II' reports were only ever brought as an exception in order to maintain transparency as far as Data Protection rules allow.
- e) The Chief Executive, in conjunction with the Head of Planning & Regeneration and the Head of Communities & Governance, consider setting a target for the processing and completion of S106 agreements.
- f) The Head of Communities & Governance considers reviewing (in conjunction with the Head of Planning & Regeneration) whether the current legal expertise available in-house was appropriate to process planning matters swiftly, and to take steps to re-provision this as opportunity permits.
- g) The Cabinet Member for Planning & Regeneration considers a report investigating the introduction of S106 Monitoring Fees in order to adequately resource the level of required activity.
- h) The Chief Executive considers the value of instructing Internal Audit to look at this area before the end of 2016/17 in order to explore further opportunities for service improvement and efficiency.
- i) That local performance indicators for the enforcement service were set and were reported quarterly to the Planning Committee.

- j) That Members were provided with a suite of reports on planning enforcement cases on a monthly basis, and were reported to Planning Committee quarterly.
- k) That the Planning Committee considers the level of delegation that exists in relation to enforcement activity.
- l) Officers investigate the possibility of finding a way of updating residents and town/parish councils in relation to complaints regarding enforcement and report back to this Committee within 4 months.

(Proposed by Cllr Mrs J Roach and seconded by Cllr F J Rosamond)

Note: - Report previously circulated and attached to Minutes.

## 10 **REVIEW OF PLANNING COMMITTEE PROCEDURES 1.30.35**

The Committee had before it a report \* from the Head of Planning and Regeneration regarding Planning Committee Procedures, which had been considered by the Planning Committee on 9<sup>th</sup> March 2016.

The report had been undertaken to review Planning Committee procedures in light of issues that had arisen and following visits to other Local Planning Authorities undertaken in 2012/13. The Planning Committee had considered the report and made a number of recommendations to the Standards Committee.

Cllr Mrs Roach had requested that the report be reviewed by the Scrutiny Committee after a number of concerns had been raised and put forward for inclusion in the procedures. She considered that these issues had not been addressed in the report.

The Head of Planning and Regeneration explained that these matters had been discussed at the Planning Committee but that the Committee had resolved not to include them.

Cllr Mrs Roach raised the following:

- The validation of information provided by applicants in the application process, in particular business cases;
- Photographs of application sites being seen for the first time at Committee and not being made publically available in advance of the meeting for supporters or objectors to view;
- A recommendation that Ward Members be restricted to 5 minutes speaking at Committee meetings.

Discussion took place regarding:

- Applications for agricultural worker dwellings needed to demonstrate that the business was financially sound and be able to demonstrate the need for someone to live on site;

- The potential to request the submission of annual accounts;
- Members should request further information if they had concerns;
- The Planning Committee needed to feel able to challenge;
- The possibility of a guidance note to identify what information could be requested;
- The need for an even handed approach.

It was **RECOMMENDED** that the Planning Committee give further consideration to:

- a) The length of time that a Ward Member was allowed to speak to an application;
- b) That photographs be posted on the website, Public Access, in advance of the meeting;
- c) The process for examining business cases for applications be reviewed to give reassurance of the validity of the information with the possibility of sending for external examination.

(Proposed by Cllr Mrs J Roach and seconded by Cllr F J Rosamond)

Note: - Report previously circulated and attached to Minutes.

## 11 5 YEAR LAND SUPPLY 2.08.14

The Committee had before it and **NOTED** a report \* from the Head of Planning and Regeneration in response the Committee's request for a report on the Council's 5 year housing land supply.

The Officer explained that the report showed that the authority had failed to achieve its 5 year land supply, despite taking action to bring forward new sites earmarked in the yet to be published in the Local Plan. The intention was to find out why this had happened and what remedial action could be taken as soon as possible to stop aggressive development until the Local Plan was published.

The Officer explained that it was the responsibility of the authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where there had been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

She further explained that the Cabinet had considered a report on five year housing land supply at the meeting of 7th August 2015. This report assessed deliverable housing land supply requirements at that time as being met, but recommended emerging local plan allocations and one contingency site at Pedlars Pool, Crediton



be brought forward for development from later in the plan period in order to add to the supply by accounting for 151 dwelling completions over the next 5 years.

On 11th April 2016, an appeal was allowed for outline planning permission for 60 houses on approximately 3.5 hectares of agricultural land outside the defined settlement boundary of the Uffculme which was not allocated for development. The main issue in determination of the appeal was whether, having regard to the development plan, the National Planning Policy Framework (NPPF), the housing land supply of the Council and the scale and location of the development, the appeal scheme would constitute a sustainable form of development.

The Inspector had summarised that Mid Devon had a deliverable housing land supply of approximately 4 - 4.5 years as compared with a requirement for 5 years, average annual housing completion rates (356) had under-delivered against targets, there had been a persistent under delivery of housing and a buffer of 20% should be applied.

This authority had only within the last year or so started to receive serious challenge by developers and site promoters over 5 year housing land supply. This was thought to be unique within the majority of Devon and in part due to the speed with which the Council had adopted local plans, including that currently adopted and had therefore been able to demonstrate a robust supply of deliverable housing sites that met requirements.

The Officer explained that one of the ways that a local planning authority could seek to maintain a supply of deliverable sites was through granting planning permission. The number of planning permissions in the District was currently standing at its highest figure since 2002/03 and there were 1427 dwellings with planning permission. Whilst strategic sites had been slower to come forward than expected, this had been offset by the higher number of planning permissions granted overall. Despite this, the average annual housing completion rate of 356 did not meet targets. This lower rate of housing completion was to a large extent a result of factors outside the control of the Council such as the economy, the local housing market, the availability of mortgage funding and the commercial decisions by particularly national housebuilders over permission implementation and build out rates.

The officer concluded that until the Council could demonstrate a 5 year land supply (with 20% buffer) there would be vulnerability to housing applications coming forward on sites that had not been planned for development.

Ways to mitigate this could be advancing the Local Plan Review to adoption, to bring forward further sites for housing development, to bring forward contingency sites, to continue efforts to deliver allocated sites, to enter into pre-application discussions on land not planned for housing to date and to update the 5 year supply figures by completing the 2015/16 monitoring year assessment as soon as possible.

The Head of Planning and Regeneration informed the Committee that the Planning Service could take a proactive approach and look to work with developers and site promoters or take a reflective approach and sit back and see what sites came forward. She asked for Members views on this. It was **AGREED** that the Planning Service should be proactive in their approach.



Discussion took place regarding:

- Concerns that speculative development could take place;
- The number of properties planned for Pedlarspool;
- The need for Gypsy and Traveller sites;
- The need to adopt the revised Local Plan.

Note: - Report previously circulated and attached to Minutes.

## 12 **PERFORMANCE AND RISK 2.32.50**

The Committee had before it and **NOTED** a report \* from the Head of Communities and Governance providing Members with an update on performance against the Corporate Plan and local service targets for 2015-16 as well as providing an update on the key business risks.

The Head of Communities and Governance provided a correction to the report regarding sickness. Work days lost to sickness should have read 3329 which was split into 2041 long term sickness and 1288 short term sickness. Long term sickness was anything over 15 days.

Discussion took place regarding the cost effectiveness of food waste collections and the Chief Executive confirmed that collection methods would be kept under review.

Note: - Report previously circulated and attached to Minutes.

## 13 **REVIEWING THE COSTS OF EFFICIENCIES 2.37.39**

The Committee had before it a report \* from the Reviewing the Cost of Efficiencies Working Group containing recommendations.

It was **RECOMMENDED** to Cabinet that:

- a) Areas of land for sale should be promoted by Members at Parish Council Meetings.
- b) A pricing structure for services that could be sold, for example to town and parish councils, local charities and small businesses be put together and actively promoted.
- c) Assets such as the Town Halls (Tiverton and Crediton) to be used to maximise income, either by sale, rent or by joint development as they are assets that could generate income.
- d) Conditions of service to be reviewed to consider amending terms and conditions regarding sickness benefits for new employees.
- e) Management information to show long and short term sickness figures.

- f) That staff be incentivised to put forward business ideas and suggestions that could be taken forward to generate income and that some form of reward scheme be put in place.
- g) That the authority becomes less risk adverse and encourage new ventures.
- h) That the Scrutiny Committee undertake a review on the effect of price rises on the Leisure Service, based on appendix 1 of the report.

(Proposed by Cllr Mrs J Roach and seconded by Cllr F J Rosamond)

Note: - Report previously circulated and attached to Minutes.

#### 14 **START TIME OF MEETINGS**

It was **AGREED** to hold Scrutiny Committee meetings at 2.15pm for the remainder of the municipal year.

#### 15 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Devolution  
Safeguarding

(The meeting ended at 4.50 pm)

**CHAIRMAN**