

Overview and Scrutiny Committee Working Group – November/December 2021Review of scrutiny item requests

Scrutiny request pro-forma	Request details
No. 11	
1. Member request	Councillor S White
2. Area of scrutiny requested and reasons for it	Inaccurate record keeping for statutory registers for self build
3. Indicate which part of the Committee's remit the request falls within	Matters relating to corporate risk and affecting the Council's area or the inhabitants of the area. Incorrect figures
4. If other, give further details	Self-build register inaccuracies.
5. Has the matter been raised directly with Officers or another Committee?	No
6. If yes to 5, give further details including dates and any response	N/A
7. Expected outcome of this requested scrutiny item	

Officer review and comments

1. In seeking to clarify with Councillor White the exact nature of the alleged inaccuracy and what it was she wished to see scrutinised, she raised various questions regarding the register and permissions granted for self-build development. She indicated that subject to the response to these questions she might be able to define the actual scrutiny required. A response was sent to Councillor White on 14 November 2021 and to date nothing further has been received, and therefore at present this request must be regarded as one seeking information and where no actual cause for scrutiny has been identified.
2. By way of background, the Council has a statutory duty to maintain a register of people who are interested in self-build or custom-build projects in the District. This register will help inform the level of demand for self-build and custom-build plots in the District. Part 1 relates to local demand and Part 2 is for general demand. Here is a link to the Council's website with relevant data for the various base periods -

[Self-build and custom house building | Self-build and custom house building | Maldon District Council](#)

3. As has been pointed out to Councillor White, there are two important points of context. First, the Council reviewed the register in 2018 by way of report to the then Planning and Development Committee when all existing persons on the register were contacted in relation to the agreed introduction of a local connection test for new applicants. Second, while certain planning applications in the past were clear as to being ‘self-build’ proposals, the inclusion of a tick box to that effect on the standard application form was only introduced in 2020. Alongside the grant of permission for specific ‘self-build’ proposals, the Council has always monitored the number of planning permissions granted for suitable serviced plots of land/small outline permissions that would be suitable for self-build.
4. The Working Group on 29 November 2021 agreed to recommend that no actual issue of scrutiny had been defined for an item to be included in the Committee’s workplan.

Scrutiny request pro-forma	Request details
No. 13	
1. Member request	Councillor V Bell
2. Area of scrutiny requested and reasons for it	Persistent concerns within the Parks Team, including an alleged culture of bullying and breaches of health and safety regulations
3. Indicate which part of the Committee’s remit the request falls within	Matters relating to the delivery of the Council’s Priorities
4. If other, give further details	N/A
5. Has the matter been raised directly with Officers or another Committee?	Previously raised concerns over health and safety with Director of Service Delivery
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	To ensure that health and safety regulations are followed at all times by staff, and to ensure that bullying has no place within MDC, and that whistle blowers are protected.

Officer review and comments

1. It appears that this matter would fall within the Committee’s remit for potential scrutiny, though references to “Persistent concerns” and “alleged culture” may require some further definition and to be evidenced.
2. In response to recent concerns, the management capacity has been increased within this area of work by the provision of an interim Operations Manager, a Health and Safety Consultant and additional support from the HR team.

3. There is an ongoing focus on Health and Safety with working group meetings identifying priorities to address. The profile of Health and Safety is being raised internally with the re-constitution of the Staff Health and Safety Committee with departmental/service are representatives. This is an independent Officer-level group with legal status through which health and safety concerns can be reported in addition to the traditional route of the line manager and where requests for improvements and action can be fed to the Council's Health and Safety Officer. Outcomes will be shared with Members through the normal reporting to the Performance, Governance and Audit Committee.
4. An action plan to address issues, which have arisen from a comprehensive disciplinary investigation, has been developed and will be shared with relevant managers and monitored via a working group, chaired by the Specialist Services Manager, Service Delivery Directorate.
5. There is ongoing and regular dialogue between the interim Operations Manager and HR on staffing issues. Issues of concern regarding language and behaviour will be addressed robustly and consistently within the HR policy framework.
6. The Council has agreed a new Equality, Diversity and Inclusion policy and also developed a supporting learning and development action plan with a focus on language and behaviours. This will be delivered over the coming months.
7. It is likely that Members will be asked to consider growth bids to improve resource levels designed to support identified improvement actions, and the PGA Committee will be routinely updated on the Health and Safety matters.
8. It is confirmed that under the Whistleblowing Policy safeguards are provided for whistleblowers.
9. The Working Group at its meeting on 29 November 2021 agreed that the potential scoping activity provided a good level of assurance with a range of work in progress. It was further agreed that it be recommended to the Committee that the need for further scrutiny work is not required at this stage, and on the basis of the information now presented the Working Group keeps the matter under review and seeks a further report in six months.

Scrutiny request pro-forma	Request details
No. 12	
1. Member request	Councillor V Bell
2. Area of scrutiny requested and reasons for it	Having read the recent employment tribunal outcome, I believe we need to look at why the proper recruitment procedures were not followed in this case, whether this was an isolated incident, and find a way to ensure that this does not happen again
3. Indicate which part of the Committee's remit the request falls within	Matters involving the scrutiny of decisions made or actions taken
4. If other, give further details	.
5. Has the matter been raised directly with Officers or another Committee?	No.
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	To understand what went wrong and to ensure that steps are put in place to avoid this happening again.

Officer review and comments

1. It is confirmed that the nature of this request relates to an area within the remit of the Committee.
2. It is confirmed that the normal recruitment policy and process and organisational change policy are followed when recruiting to roles in a transformation of this nature. On occasions, the process may be varied as happened in this case with the inclusion of the interim HR Consultant on the panel to mitigate the difficult relationship issues within the team. This clearly has been seen as not enough on this occasion but was thought to be a reasonable adjustment at the time. The opportunity to seek the assistance from neighbouring authorities to support selection processes in such cases will be considered and explored in the future.
3. The role of HR on this occasion was to deliver the transformation. However early and independent consideration of resources, including the right level of people professional resource, not impacted by the change process, to support the implementation at all stages is critical. This will ensure the appropriate challenge at the right time to enable risk to be identified and mitigated.
4. In the previous scrutiny of the Transformation Process undertaken by the Committee see **APPENDIX A** the following pertinent learning outcomes were identified:

Due to the speed and nature of the operating model process, Training and outcomes were delivered by Ignite and consultancy staff. This has meant Human Resources and management staff have had to take time and build knowledge to become custodians of the structure to be able to embed what was set out (WP1).

The impact of so few staff being job matched, and the higher than expected staff turnover had an immediate impact on project delivery and Staff Wellbeing (WP2), but latest staff survey results shows that staff satisfaction in this area has since increased

5. In the light of the Tribunal decision there has been a learning outcomes review fed back to CLT. In summary, its general conclusions are as follows:
 - As in all organisational change, process is key as well as identifying the timetable to ensure that the process can be followed with the input of all stakeholders within realistic timescales.
 - The identification of stakeholders up front is essential with the right level of professional support to enable scrutiny and challenge not only of the process, but the fundamentals and principles of the model proposed.
 - There is a need to ensure that staff delivering the process are engaged throughout whether that is to undertake the internal lead or to ensure implementation.
 - Provision of change management training and support for managers and staff.
 - For future processes, if there are concerns, that there is a mechanism for review and reflection on general or specific issues with consideration of legal opinion as appropriate

6. The Working Group at its meeting on 10 December 2021 noted in relation to the previous scrutiny request on concerns as to the behavioural culture in the Parks Team that various organisational changes had occurred since the Transformation Process, and was content to receive the above response by way of assurance as to learning outcomes and recommend to the Committee that no further report or scrutiny is required.

Scrutiny request pro-forma	Request details
No. 14	
1. Member request	Councillor M Bassenger
2. Area of scrutiny requested and reasons for it	Enforcement, the lack of action i.e. site visits and communication between Officers and the clients. To understand the long list of outstanding unresolved cases.
3. Indicate which part of the Committee's remit the request falls within	Matters relating to the review of Corporate Policy. Matters involving the scrutiny of decisions made or actions taken. Matters affecting the Council's area or the inhabitants of the area, including the draft budget.
4. If other, give further details	.
5. Has the matter been raised directly with Officers or another Committee?	No.
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	For this department to be fit for purpose.

Officer review and comments

1. It is confirmed that the nature of this request relates to an area within the remit of the Committee.
2. For clarification, this request relates specifically to Planning Enforcement, and Councillor Bassenger is concerned about both the extent and history of the list of outstanding actions and the impact of the lack of action on the Council's reputation. He wishes to see the process and resourcing for Planning Enforcement made fit for purpose.
3. While it is true there is a 'backlog' of outstanding cases, there is an important context against which any review needs to be considered. First, it is important to understand how Planning Enforcement resourcing was affected by Transformation Programme, and second a review of the Council's Enforcement Policy was undertaken towards the end of last year
<https://democracy.maldon.gov.uk/documents/g2313/Public%20reports%20pack%2024th-Nov-2020%2018.00%20Strategy%20and%20Resources%20Committee.pdf?T=10>

4. While the review sought a more succinct and realistic set of timelines in relation to the process, its full implementation was predicated on the availability of additional resources. The Council is currently advertising for two additional posts dedicated to Planning Enforcement. It appears that if the Council is successful in recruiting to these positions it will return the resourcing to a similar level to that prior to the Transformation Programme, although support from Planning Administrative staff will be required.
5. It is likely to be extremely difficult to draw many conclusions as to the nature and causes of the backlog, and inevitably the cause will be down to resourcing. The process for Planning Enforcement is not a mechanical one, and a diligent approach is required in all cases in view of the legal implications and the potential risk of challenge through appeal and subsequent awards of costs against the Council. Some of the longer outstanding cases can be seen as quite complex and which require significant concentrated effort to progress.
6. It would seem that if an opportunity is to be afforded to Officers with the benefit of additional resources to make inroads into the backlog as envisaged at that time of the Policy review last year, there is little or no merit in looking to scrutinise any aspect of the Planning Enforcement process at this time. The Working Group at its meeting on 10 December 2021 agreed to recommend to the Committee that a watching brief is kept on this item and that in the meantime further information is required as to what the approach will be towards the aspirations set out in the Policy review once the additionally resources are in place together with clarity as to the nature of the monthly lists of outstanding enforcement actions sent to Members.

Scrutiny request pro-forma	Request details
No. 15	
1. Member request	Councillor K Jarvis
2. Area of scrutiny requested and reasons for it	(Summary) Arising from discussion on application 21/00788/FUL at the District Planning Committee meeting on 2 December 2021 and the issue of the removal of trees, clarification required as to whether there was a condition on the original hybrid application or that the condition had been satisfied. Further, to what extent do any Officers of the Council check compliance with conditions, were the trees removed in compliance with or go beyond that covered by the original plans. On a wider point, to what extent is compliance with conditions checked by Officers. Concern as to a possible considerable number or conditions being breached but going undetected, thus making the imposition of conditions ineffective.
3. Indicate which part of the Committee's remit the request falls within	Matters involving the scrutiny of decisions made or actions taken

4. If other, give further details	.
5. Has the matter been raised directly with Officers or another Committee?	No.
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	Confirmation that in this case only those trees identified for felling were felled and that the Council has a process in place that routinely checks that such conditions are being complied with.

Officer review and comments

1. It is confirmed that the nature of this request relates to an area within the remit of the Committee.
2. This request was received too late to be explored sufficiently to enable preliminary consideration by the Working Group, however its receipt was reported to the meeting on 10 December 2021. The Working Group felt that this could be received and dealt with as an adjunct to the wider scrutiny item above requested by Councillor Bassenger, although for the present it was a request for information and would be pursued on the basis and any outcome reported to the Committee. Additionally, the Working Group felt it would be useful to have clarity on exactly what the process was for the following up and checking of planning conditions and whether this involved Enforcement or Planning Officers or both.

Update post-Working Group Meeting

While it is noted that Councillor Jarvis resigned as a Councillor subsequent to his submitting this request, he was provided with a response to his request for information and clarification of matters arising from discussion on a matter at a recent District Planning Committee meeting. This confirmed that firstly Officers did not have any evidence that the removal of trees had gone beyond what had been shown on the approved plans or in contravention of a planning condition, and secondly that should evidence of any contravention come to light then it would be dealt with as any other alleged contravention. In addition, discussions with the developers were continuing under the terms of Planning Performance Agreement and this would include the subject of trees, as considerable new planting was proposed. Councillor Jarvis was content with that, subject to his being kept updated, and for his request to be linked to the wider issue of enforcement as raised by Councillor Bassenger (request no. 14).

Should the Committee agree to accept the Working Group's recommendation on request no. 14, it would seem both reasonable and relevant to align request no. 15 to it insofar as it relates to an understanding of how the enforcement of planning conditions is dealt with as part of the overall approach to, and resourcing of the enforcement of planning control.