

MIDDLESBROUGH COUNCIL

AGENDA ITEM 3

OVERVIEW AND SCRUTINY BOARD

2 AUGUST 2018

<p>CALL IN – DIXONS BANK/ STANTON WAY HIGHWAYIMPROVEMENT SCHEME</p>
--

PURPOSE OF THE REPORT

1. In accordance with Middlesbrough Council's Call In Procedure, to allow Members of the Overview and Scrutiny Board (OSB) the opportunity to consider a decision made by the Executive.

RECOMMENDATION

2. That the Overview and Scrutiny Board considers the decision of the Executive and determines whether it should be referred back to the decision making body for reconsideration.

EXECUTIVE DECISION –

3. A meeting of the Executive was held on 10 July 2018. At that meeting, consideration was given to a report of the Executive Director of Growth and Place in respect of the A172 Dixons Bank/Stainton Way Highway Improvement Scheme.
4. A copy of the above report, which outlined the background to the Improvement Scheme and the analysis of traffic modelling and consultation exercises, is attached at **Appendix 1**.
5. The report included the following recommendations:-

That the Executive;

a) Notes the outcome of the public consultation exercise held for the A172 Dixons Bank/Stainton Way Highway Improvement Scheme; and

b) Approves the implementation of the proposed scheme.

The decision was supported by the following analysis:

Whilst there was opposition against the introduction of the proposed scheme, it is also clear that decisive action needs to be taken, both to address the

current issues of congestion on the road network and to mitigate the predicted impact of traffic growth on the operation of the network in future years. 'Do Nothing' is, therefore, not an option.

As detailed earlier in this report, the Council has adopted an iterative, 'step by step' approach over the last five years that has resulted in the development of a coordinated package of highway improvements designed to ensure that the local road network functions as efficiently as possible over the life of the Middlesbrough Housing Local Plan.

The proposed scheme forms a key part of that package, unlocking additional capacity at the junction of Dixons Bank and Stainton Way and, by doing so, diverting future demand away from the A172 Marton Road Corridor and onto Stainton Way, B1365 Hemlington Lane, the A174 Parkway and the A19 instead. Failure to deliver the scheme would, therefore, not only result in additional delays at the junction, but would also increase the pressure on the section of the A172 between Stainton Way and the A174 Parkway, which is already operating at or close to its practical capacity for much of the day. This would, clearly, be at odds with the Council's statutory duty as Highway Authority to secure the expeditious movement of traffic on the Borough's road network, as well as impacting negatively on the local economy.

A number of the objectors to the proposed scheme have put forward alternative mitigation measures, some of which are being considered as part of the Joint Strategic Transport Needs Assessment referred to earlier in this report. However, given the volume of traffic that already uses the junction, and the predicted growth in traffic movements due to new housing developments in the immediate surrounding area, it is clear that the operation of the junction would be compromised even if interventions further afield are put in place. Therefore, and whilst it is accepted that the proposed scheme would have a minor adverse impact on the occupiers of the properties directly adjacent to the two sections of road affected by carriageway widening, this needs to be balanced against the wider benefits that it would deliver for users of the road network in south Middlesbrough. For this reason, it is recommended that the proposed scheme is taken forward to the implementation stage.

CALL IN PROCEDURE

6. The power to call in a decision of a local authority executive body was introduced under the Local Government Act 2000. The process is intended to hold decision makers to account and ensure that executive powers are discharged properly. Call in ensures that a decision can be reviewed and reconsidered before it is implemented.
7. The procedure allows Members the opportunity to call in decisions for review by the Overview and Scrutiny Board as follows:
 - A decision made by The Executive;
 - A decision made by an individual Member of the Executive;
 - A decision made by a committee or sub-committee of the Executive;
 - A key decision made by an officer with delegated authority from the Executive; or
 - A decision made under joint arrangements.

8. The process is initiated by five Members of the Council requesting a decision to be reviewed within five working days following publication of the decision and submitting a form that outlines the reason(s) for the call in.
9. Following the meeting of the Executive 10 July 2018, the required call in form signed by five Members supporting the request to call in the decision outlined above was received on 17 July 2018. The five Members supporting the call in were (Councillor Rathmell (who initiated the call in) Councillors Hubbard, J Hobson, C Hobson and Mohan.
10. The decision to be Called-In is as follows:
 1. Notes the outcome of the public consultation exercise held for the A172 Dixons Bank/Stainton Way Highway Improvement Scheme; and
 2. Approves the implementation of the proposed scheme.
11. The reasons for the call in, as determined as being valid by the Council's Monitoring Officer, are as follows:

- a) *"7. Consultants Arup were commissioned jointly by Middlesbrough Council and Redcar & Cleveland Borough Council in 2008 to investigate potential options for the East Middlesbrough Transport Corridor. The aims of this study were to reduce traffic congestion on the adjacent highway corridors and improve accessibility to Middlesbrough town centre by public transport, thereby supporting planned housing and economic growth."*

This report provides background, above, as justification for the need to implement this proposal but throughout the report omits to detail improved accessibility to Middlesbrough town centre by public transport which, have been considered as part of the overall package.

It goes on at paragraph 8 to refer to a "park & ride facility to the south of Nunthorpe. Then at paragraph 9 the report states the recommendations in the Arup report published in 2009 were approved in principle by both Middlesbrough & Redcar and Cleveland Council except for the proposed link road from Swan's Corner.

Despite providing this background the report omits to provide the Executive with information as to why the proposals in the 2009 publication were not advanced and/or carried out and why some of those proposals have not been explored further.

Proposed Scheme.

- b) "17. The section of A172 Dixons Bank and Stokesley Road between Stainton Way and the A 174 Parkway (i.e. past Marton Shops) currently carries around 25,000 vehicles per average weekday, and there is little scope to accommodate any future increase in traffic flow without major alterations to the existing highway layout to create two lanes in each direction, together with additional lanes for fuming traffic on the approaches to the intermediate junctions. The associated cost effectively rules this out as a viable option."

In 2008 Middlesbrough Council in response to direct questions, Freedom of Information requests and requests by elected members quoted "around 25,000 vehicle passes per weekday at the stretch of road referred to in paragraph 17. There has been insufficient information provided to the Executive to support the narrative and recommendations of this report which are, in layman's terms; The Marton Crawl is not a new phenomenon and due to the increased housing developments and traffic, doing nothing is not an option. If this is to be supported then why is there an omission of current vehicle data to support the assertion that the problem is getting worse if, in a period of 10 years and the publication of 3 reports the vehicle passes still remain the same?

This question was raised at the Executive by councillor Chris Hobson to which councillor Young responded; "I don't understand your question Well congestion is congestion whichever way you look at it." There was no input or information provided to the Executive to support them in making an informed decision by officers.

- c) *"18. For this reason, the underlying principle behind the proposed scheme at the Southern Cross junction is to encourage drivers heading towards Middlesbrough City Centre to travel via Stainton Way (which currently carries around 15,000 vehicles per average weekday), B1365 Hemlington Lane, the A174 Parkway, the A19 and the A66, rather than via the A 172 Marton Road Corridor. As highlighted above, improvements are also proposed at key junctions on Stainton Way and B1365 Hemlington Lane in order to accommodate future traffic growth."*

For reasons referred to at paragraph 17, insufficient information and/or evidence has been provided to ensure that the decision makers have the evidence and information available to them to make an informed decision, there is no evidence contained within the report to demonstrate that traffic figures have increased or the problem has worsened.

- d) *Public Consultation*
"25. The first phase of the consultation exercise was carried out in September 2017, and was timed to coincide with a major media launch of the wider package of highway improvements across south Middlesbrough in order to raise awareness of the rationale underpinning the Council's approach. Fonnal consultation was limited to the occupiers of those properties with direct frontage access to the two lengths of road where carriageway widening is proposed, as it was felt that they would be most directly affected by the proposals. This involved a letter drop to a total of seven properties on Dixons Bank (no properties have direct frontage access onto Stainton Way). The Councillors representing the three Wards in the vicinity of the proposed scheme - Marton East, Marton West and Nunthorpe - were also consulted, as was Nunthorpe Parish Council. Key transport stakeholders, including the Police, emergency services and bus operators, were also consulted."

This paragraph is disingenuous at best and misleading at worst, as a Ward Councillor I am still awaiting notice of any formal consultation and

I am aware that Nunthorpe Parish Council were also not consulted in September 17, in fact they had to write to officers to ask why they had not been included as part of the consultation. This was an issue they also raised with Mayor Budd. Once again this report is not providing the decision makers with sufficient information to make an informed decision and is misleading the Executive to believe that the events detailed above took place as stated which was not the case.

- e) *"30. The reports prepared by Arup following the traffic modelling exercises carried out between 2013 and 2016 were subsequently published on a dedicated page on the Council website, together with a summary of the proposed scheme and an e-mail link allowing anyone with an interest in the scheme to submit their comments."*

This is not entirely reflective of events, the reports and dedicated links were not working for several weeks and numerous requests were submitted by various different groups to have this addressed, in addition the opportunity to comment was not working for the same period. This was raised with council officers on a number of occasions before being rectified.

- f) Results of Public Consultation Exercise
"31. A total of 87 responses were received by the deadline of 18th March 2018. 42 of these responses came from the 89 occupiers of the properties that received formal consultation letters (a 47% response rate), with the remaining 35 coming from further afield. Of the 42 responses received from the occupiers consulted, two were in favour of the proposed scheme, with 39 against."

This is also not accurate and extremely misleading the highways officer is aware that a further 87 responses were received December 2017 but not included by the Council in this report, this has been discussed with him by residents and members of the Community Council. These responses were submitted before the deadline and therefore the information should have been included.

The remaining items to be challenged at the call in using Middlesbrough Council's own data, figures and resources are to rebut paragraphs 56 - 68 inclusively.

- g) Conclusion
The purpose of a call in is to challenge a decision where the decision makers have not been provided all of the information or have not been provided with sufficient detail in order to make an informed decision. It is clear from the points raised above that this has happened on a number of occasions and therefore to not allow this matter to be scrutinised would be reckless and contrary to the democratic process and principles of scrutiny.

12. To assist the Overview and Scrutiny Board in the call in process, the Executive Member for Economic Development and Infrastructure and appropriate Council officers will be present at the meeting. The Executive Member and officers will explain the reasons and rationale behind the report

and the decision that was made. The Member who initiated the call in will also be present to explain their views and concerns in respect of the decision.

13. A copy of the procedure to be followed at the meeting is attached at **Appendix 2**.
14. Having considered the submitted information, the Overview and Scrutiny Board has the following courses of action available:
 - i. To refer the decision back to the Executive for reconsideration. In that case, OSB should set out in writing the nature of its concerns about the decisions.
 - ii. To determine that it is satisfied with the decision making process that was followed and the decision that was taken by the Executive. In that event, no further action would be necessary and the Executive decision could be implemented immediately
 - iii. Request that the decision be deferred (adjourned) until the Overview and Scrutiny Board has received and considered any additional information/evidence required to make a decision with regard to the Call-In from other witnesses not present at the committee. (The Committee need to clearly identify the relevant issues that need to be given further consideration and whether there are any specific time constraints or other implications affecting the proposed implementation of the decision.)
 - iv. Take no action in relation to the Called-In decision but consider whether issues arising from the Call-In need to be added to the Work Programme of any existing or new Overview and Scrutiny Standing Panel/OSB. (The Committee need to clearly identify the issues to be added to the Work Programme.)
 - v. If, but only if (having taking the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that the decision is wholly or partly outside the Budget and Policy Framework refer the matter, with any recommendations, to the Council after following the procedure in Rule 8 of the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.
15. In the event that the decision is referred back to the Executive a further meeting of the Executive would be arranged within ten further working days. The Executive would then make a final decision in the light of any recommendations made by OSB.
16. Where the recommendations of OSB are not accepted in full by the relevant Executive body, the body should notify the OSB of this and give reasons for not accepting the recommendations.

BACKGROUND PAPERS

17. The following background papers were used in the preparation of this report:

- Middlesbrough Council's Call-In Procedure.
- Report to Executive - 10 July 2018.

Contact Officer:

Scott Bonner
Democratic Services Officer
Democratic Services
Tel: 01642 729708 (direct line)
E-mail: scott_bonner@middlesbrough.gov.uk