

ECONOMIC DEVELOPMENT, ENVIRONMENT AND INFRASTRUCTURE SCRUTINY PANEL

A meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel was held on Wednesday 12 October 2022.

PRESENT: Councillors J McTigue, (Chair), R Arundale (Vice-Chair), D Branson, T Furness, A Hellaoui, B Hubbard and J Thompson

OFFICERS: Chris Bates, Alex Conti, Paul Clarke, Geoff Field, Susan Lightwing, Sarah Louise McKenna and Dale Metcalfe

APOLOGIES FOR ABSENCE: were submitted on behalf of Councillor T Mawston

22/24 WELCOME AND EVACUATION PROCEDURE

The Chair welcomed all present to the meeting and read out the Building Evacuation Procedure.

22/25 DECLARATIONS OF INTEREST

There were no declarations of interest received at this point in the meeting.

22/26 MINUTES - ECONOMIC DEVELOPMENT, ENVIRONMENT AND INFRASTRUCTURE SCRUTINY PANEL - 14 SEPTEMBER 2022

The minutes of the meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel held on 14 September 2022 were taken as read and approved as a correct record.

22/27 PREVENTION OF DAMAGE TO GRASS VERGES IN MIDDLESBROUGH

Officers from Environment and Commercial Services were in attendance at the meeting to discuss the topic of Prevention of Damage to Grass Verges in Middlesbrough. A slideshow of photographs of examples of grass verge damage that had been submitted by Middlesbrough Councillors was shown to the Panel.

It was acknowledged that damage to grass verges was a problem and the original layout of houses, housing estates and some of the road network in Middlesbrough had not been designed to cope with the increase in car ownership. Many households owned two or more vehicles and the demand for available car parking space had risen.

The natural solution to combatting damage to grass verges was to remove them completely or replace them with parking bays. However, the funding currently available was not sufficient to accommodate the level of demand for action. The total budget for Highways Projects was approximately £1.3 million a year which was used for carriageway resurfacing, street lighting, bridges and structures, traffic signals and flood relief. About £200K of that budget was allocated to grass verge repair or replacement.

In 2020, when the Scrutiny Panel last investigated this topic, there were 328 outstanding requests from Councillors and residents on the work schedule, which were prioritised according to the Council's approved methodology. Currently, in 2022, there were 347 outstanding requests for works which would cost approximately £5.25 million pounds to complete. On a positive note, 20 schemes had been completed in the last 2 years.

Unfortunately, in the Council's current financial situation, increasing the budget for grass verge maintenance could only be considered at the detriment of other work such as road or pavement repairs which were also in high demand.

Under current legislation it was not an offence to park a vehicle on a grass verge unless it caused an obstruction, there were waiting restrictions on the road, or there was a local byelaw in force. Heavy Goods Vehicles were however prohibited from verge parking. There were a range of enforcement powers available to the Council but it was highlighted that enforcement

tactics could lead to vehicles being parked elsewhere and causing further issues. Enforcement activity was also resource intensive.

Stockton Council had been successful in using Community Protection Notices (CPNs) to tackle grass verge parking. Middlesbrough Council had also introduced CPNs in March 2021 but they had not been used to date for that purpose. Both the Community Safety Team and the Environmental Enforcement Team had been trained to issue CPNs. CPNs were issued to deal with the unreasonable behaviours of individuals that negatively impacted on the local community.

The process involved assessing the damage to grass verge and then proving that the behaviour of the motorist was unreasonable and detrimental to the locality. Photographic evidence of the driver of the vehicle was also required, since breaching a CPN was a criminal offence. Two warnings would be issued initially, a removal notice would be posted on the vehicle and then a CPN warning. If no action was taken by the vehicle owner, a CPN notice would be issued requiring the motorist to comply with the conditions stated in the notice. If the notice was not complied with, a Fixed Penalty Notice could be issued or a fine. Offenders could also be charged for the cost of any repair works to the damaged verge.

It was highlighted that Middlesbrough Council's Highways Team inspected damaged grass verges and took photographic evidence. Car owners' details were obtained from the DVLA and the Council would send a warning letter asking them to desist. This approach was generally positive. Repeat offenders would be targeted with a further letter letting them know that the Council could re-charge them for any repairs that were required. A suggestion was made that Councillors could be informed of individuals causing an issue in their wards, however it was clarified that releasing individuals' details would be a breach of data protection. There was however potential for a reporting system via the Council's website.

Members discussed the following points:

- The length of time taken to carry out hardening works to grass verges and the waiting list.
- Enforcement options and the potential consequences of discriminating against car owners or moving the parking problems elsewhere.
- The poor public transport system potentially contributing to higher car ownership.
- Prevention methods such as tree planting, adding plastic grids to the verges or introducing parking restrictions.
- Introducing one way systems on narrow roads to try and prevent cars parked at either side and causing obstruction.
- Education and communication via the Love Middlesbrough publication.
- Ensuring grass verges were designed out of any new housing developments and sufficient parking incorporated.

It was acknowledged that tree planting could be an option on selective roads, in consultation with Ward Councillors. It would be vital to ensure that the species of tree selected was suitable and would not cause other problems such as damaging the pavements with roots. Other considerations were that utilities were often buried under grass verges and that visibility on the highway should not be impacted.

The Panel was informed that the Council had tested the plastic grid option in Thorntree Cemetery and it was not significantly cheaper than hardening treatments. The channel still had to be dug out and the grass did not grow through it. Litter could also become trapped in it making it unsightly.

In relation to the suggestion of implementing one way traffic in narrow streets, it was clarified that a Traffic Regulation Order would be needed. As part of the green agenda and the move towards more electric cars, Officers were currently looking a solutions for charging points on roads with terraced houses which could impact on the availability of parking space. One idea was to use lighting columns as charging points.

With regard to pavement crossings it was confirmed that house owners could apply to the Council to have a crossing installed to provide vehicle access to their garden/driveway if required. All costs would have to be met by the house owner.

It was generally agreed by Panel Members that there was not a single affordable solution to the issue of damage to grass verges. Different solutions could be applied to different areas. Some Members were also of the view that residents should not be prosecuted for parking on grass verges where there was nowhere else available to park in the vicinity without causing an obstruction. Similarly, where motorists deliberately caused unnecessary damage, it was felt this should be addressed.

AGREED as follows:

1. that the information provided was received and noted.
2. an invitation be extended to a representative of Thirteen Housing to a future meeting to explore other ways of addressing the issue of grass verge damage.

22/28

NUTRIENT NEUTRALITY

The Head of Planning explained that the basic concept of nutrient neutrality was to ensure that any land use or developments occurring around watercourses did not cause an increase in harmful nutrient levels. In Middlesbrough this related to the impact of nutrients on the Teesmouth and Cleveland Coast Special Protection Area (SPA).

On 16 March 2022, Natural England added Middlesbrough to the list of 74 Local Authorities affected by nutrient neutrality, highlighting that immediate action and a new approach was needed. Since legislation was already in place there was no transition period and the advice had to be adopted with immediate effect.

Natural England's advice was that excessive levels of nitrogen impacted on the integrity of the SPA and some new developments should not be permitted unless nutrient neutrality was achieved. Excessive nitrogen could lead to algal blooms which impacted on protected species and their habitats.

Natural England had provided a calculator to help determine potential impacts. Nutrient Neutrality was achieved by ensuring there was no more nitrogen as a result of development. The amount of nitrogen from existing land use and proposed land use was measured and had to be mitigated. It was noted that there was a greater impact on brownfield sites than on greenfield ones.

Natural England's advice affected the whole of the River Tees catchment which encompassed 11 planning authorities, from Tees Estuary across to Cumbria. However, only Middlesbrough, Stockton and Darlington were affected in their entirety.

There were three main sources of nitrogen: agriculture (from fertilisers), industry and people (through the waste water infrastructure network). Work had shown that waste water from households and human activity accounted for potentially less than 1% of the total but this was what the advice was specifically targeting. The biggest impacts were believed to be from agriculture, industry and the water authorities.

As the Local Planning Authority, Middlesbrough Council made decisions on planning applications, prepared the Local Plan and took into account all land issues including impact on the environment. The Council also had a role to act as a Competent Authority to protect European sites in line with Habitat Regulations, undertake assessment tests to check whether plans or proposals would cause harm, and agree any mitigation required to allow development to proceed.

Nutrient neutrality guidance affected all developments where there would be an increase in overnight stays, producing more nitrogen via the sewerage system. Residential developments, hotels, and student accommodation were all included. Commercial properties, schools, offices or home extensions were not, as the assumption was that people using those facilities already lived in the catchment area and already contributed to the wastewater system and should not be double counted. Some other developments such as tourist attractions or hospitals might be out of scope depending on the area served.

Further guidance was awaited on mitigation measures which might include:

- Removal of land from agricultural use.
- Tree Planting.

- Reed beds/filtration.
- Engineered solutions.

Mitigation had to be provided within the catchment area and would likely lead to greener developments as more landscaping would be required. In Middlesbrough, developments such as Stainsby and Newham Hall had the potential to incorporate water habitats. The catchment area for providing mitigation was vast, however the Council intended to prioritise Middlesbrough in the first instance, then the Tees Valley and then the wider area.

As a result of Natural England's guidance there was an immediate moratorium on approving new housing development and other affected schemes. Applications for 1532 dwellings, 274 bedrooms student accommodation, a 4 bedroom House of Multiple Occupation (HMO) and a 48 bed hotel were affected. Schemes that had already been granted planning permission were not affected. Unfortunately one housing development in Middlesbrough that was likely to be approved was awaiting a Section 106 agreement when the moratorium came in. The Council's 5 year land supply was not affected as yet. A small number of schemes could still progress because the proposed impact was less or equal to existing land use. Those developments in scope would be subject to appropriate assessment.

Other implications for Middlesbrough included:

- Mitigation: current estimates using the current Natural England calculator were between £2,000 and £10,000 per dwelling. For developments proposed at Newham Hall this could be additional £2-10 million and for Middlehaven could be additional £1-5 million. This would impact on capital receipts as Developers would want to pay less for sites.

The figures provided had not been tested and therefore the level of impact could be less or it could be higher.

- Medium Term Financial Plan: whilst there would not be an immediate impact on current housing schemes and build rates, the impact on delivery would be felt in two to three years' time and it was vital to resolve the issues now.
- Brownfield sites and regeneration of town centre: more mitigation would be required for the same level of development as brownfield sites would be more hampered than greenfield sites. There was a lack of potential for on-site mitigation and the viability of such sites could be impacted. A number of Local Authorities were worried because they did not want to develop greenfield areas.

It was highlighted that Housing Developers wanted to build in Middlesbrough but on the greenfield sites. The Council had to translate that strategy onto sites and how best to deliver them. Brownfield sites had to be the preferred option in terms of meeting housing types, facilities, population needs but they still needed some kind of public resource to bring them forward.

Middlesbrough Council was working jointly with the other affected authorities in the Tees Catchment and had sought legal and other specialist advice. The Council would also learn from others' experiences – one example was the Solent area which had taken over two years to find a solution. It would be important to develop a consistent approach across the Tees Valley and look at strategic mitigations to offset the impacts and take developments out of the nutrient neutrality scope.

The Council had challenged the Natural England calculator and evidence and commissioned consultants to consider population impacts of new development. The calculator had applied a formula of 2.4 persons per dwelling but a figure below that would drastically reduce the impact and therefore the mitigation figures. First and foremost the Council wanted to concentrate on reducing the level of impact to make it easier to mitigate against. In addition, the Council was trying to find ways of bringing brownfield sites forward and using its own land holdings and tree planting programmes to reduce nitrates. Any solutions would be used to help regeneration schemes on brownfield sites first and then assist developers to find the mitigation on greenfield sites.

Following recent changes within government there was some uncertainty as to possible

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changes to national planning policy, legislation – with a new Regeneration and Levelling Up Bill and proposals to increase the statutory responsibilities of water companies to include taking nitrates out of the system by 2030. There had been rumours that new investment zones could be introduced with reduced planning requirements, and that nutrient neutrality could be removed from those zones altogether. However this was speculation and not fact. Potentially the proposed Middlesbrough Development Corporation could be designated as an investment zone.

There was also some tension between planning legislation and environmental legislation. The designated SPA was home to predominantly migratory birds. The government could potentially look at that area and not afford the same weight to environmental protections there. If some of that area was to be excluded from nutrient neutrality requirements, then the environmental legislation would need to be changed.

AGREED that the information provided was received and noted.

22/29 **OVERVIEW AND SCRUTINY BOARD UPDATE**

The Chair provided a verbal update on agenda items from the Overview and Scrutiny Board meeting held on 21 September 2022 which included the attendance of the Mayor, updates from the Chief Executive and the Scrutiny Chairs, and the Corporate Performance Update: Quarter One 2022/2023.

22/30 **MIDDLESBROUGH COUNCIL MOTION NO. 153 – TOXIC CHEMICALS IN THE RIVER TEES**

Councillor Branson referred to recent news articles regarding the shellfish deaths along the north east coast and the likelihood that this was caused by pyridine rather than algal bloom as detailed in the official government report. It was unclear whether or not Middlesbrough Council would be taking part in any joint scrutiny investigation into the issue.

AGREED that the Democratic Services Officer would seek clarification from Legal Services as to Middlesbrough Council's willingness to participate in a joint scrutiny investigation with other Tees Valley Authorities.

22/31 **DATE OF NEXT MEETING - 9 NOVEMBER 2022**

The time and date of the next meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel was confirmed as 9 November 2022 at 10.30 am.

22/32 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED**

None.