
ECONOMIC DEVELOPMENT, ENVIRONMENT AND INFRASTRUCTURE SCRUTINY PANEL

A meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel was held on 18 November 2020.

PRESENT: Councillors Saunders, (Chair), Hubbard (Vice Chair), Arundale, Branson, Coupe, Furness, Garvey, Lewis and M Storey

PRESENT BY INVITATION: Councillor J Thompson, Chair of Overview and Scrutiny Board

OFFICERS: C Bates, S Bonner, P Clarke, A Conti, S Lightwing, C Lunn, M Walker

APOLOGIES FOR ABSENCE None submitted.

DECLARATIONS OF INTERESTS

There were no Declarations of Interest at this point in the meeting.

1 **MINUTES - ECONOMIC DEVELOPMENT, ENVIRONMENT AND INFRASTRUCTURE SCRUTINY PANEL - 7 OCTOBER 2020**

The minutes of the meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel held on 7 October 2020 were taken as read and approved as a correct record.

2 **PARKING ON GRASS VERGES**

The Environment Services Manager and the Head of Stronger Communities were in attendance at the meeting to provide information in relation to parking on grass verges. Parking on, and vehicular damage to, grass verges was a persistent problem throughout the town. Levels of car ownership had increased and many households owned two or more vehicles, which in turn led to greater demands and competition for available parking space. Many older housing estates had narrow access roads and a significant number of amenity areas. Houses in these areas often fronted onto large grassed areas rather than direct road frontages.

Narrow roads could result in drivers parking on verges in an effort to avoid obstructing the road for through traffic and, in particular, emergency services vehicles, refuse collection vehicles and removal/delivery vans. Traffic calming features could often displace vehicles from the carriageway onto adjacent verges and footways.

Parking on verges could cause structural and environmental damage and reduce verges to an unsightly state, presenting a potential hazard to the public through deep rutting. In addition it made them more difficult and expensive to maintain, and could cause damage to trees, roots and underground infrastructure. It could also cause a danger to pedestrians and other road users, particularly at junctions or pedestrian crossing places, by blocking visibility. Maintenance operations such as grass cutting and street cleanings could be impeded. There was also the potential for conflict between residents who wished to park on the verges and those who wanted them protected.

Whilst residents were generally aware that they should not be parking on the verge there were several reasons why they persisted including:

- front door access - parked as close to their property as physically possible.
- fear that the vehicle would be vandalised if parked too far away from their property.
- concern about damage to wing mirrors and the vehicle.
- lack the alternative facility of in curtilage parking.
- choose to park on the grass verge because it is available and involves less effort than parking on driveway.

The Council received complaints from a variety of sources relating to: obstruction, damage, access difficulties, road safety issues, neighbour disputes and general annoyance. Complaints were often associated with requests for verge hardening, provision of new or additional parking facilities, bollards or knee rail in the verge, or new or additional parking restrictions.

In October 2012, the Council's Executive formally approved a methodology and systematic approach for dealing with requests for parking interventions and to address problems concerning road safety, accessibility for emergency services, buses and areas of damage to either grass verges or footways as a result of the regular occurrence of parked vehicles.

The decision-making process implemented recommended one of three outcomes: prevention, accommodation or no action.

Options for prevention included:

- Introduce new waiting restrictions.
- Report to local neighbourhood policing team.
- Introduce local pavement parking ban.
- Provide Pavement crossing.
- Edge Treatment - bollards, knee rail, barriers, planting.
- Advisory road markings.
- Mediation.

It was highlighted that consideration needed to be given to the impact of any displaced parking and the level of resources available to effectively enforce any new regulations.

Options for accommodation included:

- Provision of parking bays.
- Strengthen/pave/existing verge.

As the volume of requests from the public far exceeded allocated budget a system was established to prioritise and categorise all requests. This prioritisation procedure used a specific system and set of criteria which resulted in a score being allocated and determined whether a request fell into the low, medium or high priority category. If a funding contribution was received towards the cost of implementing a scheme at any given location, then the score was increased by the percentage of the external contribution.

To date 328 outstanding requests for action were recorded on the schedule, comprising 127 low priority, 160 medium priority and 41 high priority requests. Residents in the Park End and Beckfield ward had submitted the most requests for action and residents in Newport ward the least. The number of roads in the town subject to requests for action was 178. The most requested treatment solution was verge hardening at 77%, followed by verge protection at 13%, and parking facilities at 10%. The approximate cost to accommodate all outstanding requests by ward was £4,412,600.

This process enabled the formation of a prioritised list of locations and works for input into future forward programmes, the planning of phased works to facilitate a progressive improvement in local conditions for residents, and ensured that available resources were put to best use. Those locations assessed as being high priority for intervention were put forward for consideration for inclusion in a 3 Year Forward Programme of Verge Remedial Works. The number of locations able to be included was dependent on capital budget allocation, which was currently set at £150k per annum.

There were currently sixteen number high priority locations recorded on the schedule at an approximated cost of £709,000. A number of wards currently had no locations situated within the high priority range. Since the figure £709,000 exceeded the allocated budget, not all high priority locations could be accommodated in the programme. Therefore, those locations situated at the upper end of the high priority range would be targeted first. Those locations falling at the lower end of the high priority range would be carried forward for consideration for inclusion in the next 3 Year Forward Programme of works. Details of the current Work Programme were included in the submitted report.

At some locations it might be necessary to implement works on a phased basis. This generally applied to longer stretches of road where a high proportion of residents had requested that the verge outside their home be removed. These roads tended to be bus routes and/or traffic calmed. To accommodate all requests as part of an individual scheme would significantly impact on available budget.

A programme of phased works allowed scope for the implementation of schemes at several high priority locations during the course of a financial year, resulting in continuous improvement in local surroundings on a number of roads. This approach generally satisfied the majority of residents who could see that progress, albeit gradual, was being made.

The installation of parking facilities could also have a major impact on available resources, especially at locations where houses were set back off a green area. These areas often entailed major construction works by way of an access road that required more detailed design consideration such as street lighting, drainage and possible diversion of underground cables, which could ultimately prove cost prohibitive.

Under current legislation and guidance there was no national prohibition on verge parking. It was not an offence to park a motor vehicle, other than a Heavy Goods Vehicle (HGV) on a grass verge unless it caused an obstruction, there was a local byelaw prohibiting it or there were waiting restrictions on the road. The powers available to the Council included:

- Traffic Regulation Orders (TROs) (Traffic Management Act 2004) - the Council's Civic Enforcement Officers (CEOs) could issue a £50 or £70 Penalty Charge Notice.
- Penalty Charge Notice (PCN).
- New Traffic Regulation Orders (TROs) (Road Traffic Act 1984) - could be made to address road safety or traffic management issues for example outside schools or close the main road junctions or bus stops.
- Highways Act 1980 (Section 131) - damage to the highway - the Council could take action to recover the cost of repairs through the Magistrates Court. Costs tended to range from between £80.00 to £180.00.
- Highways Act 1980 (Section 137) - wilfully obstructing free passage along a highway. This offence could only be enforced by a uniformed Police Officer who could issue a £50 Fixed Penalty Notice to the offending vehicle.
- Highways Act 1980 (Section 184) - the Council can construct a vehicle crossing on behalf of any resident who habitually crossed a grass verge to access their property and recharge reasonable costs.
- Road Traffic Act 1984 (Sections 64 and 65) - local pavement parking ban - can be enforced by PCNs to anyone parking on the footway or verge within the designated area.
- Refuse Disposal Amenity Act 1978 (Section 3) - abandoned or disused vehicles. There is no legal definition of what constitutes an abandoned vehicle. The Council's Community Protection Enforcement Team have powers to remove vehicles.
- Clean Neighbourhoods and Environment Act 2005 (Section 3) - vehicles for sale on the Highway (Section 3). The Council has powers under abandonment legislation to remove them.

Other measures that could be considered included:

Community Protection Notices (CPN) - Contrary to Anti-social Behaviour, Crime and Policing Act 2014. Stockton Council had recently introduced a process that allowed them to issue a CPN to tackle verge parking problems. The process initially involved issuing two warnings: a removal notice posted on the vehicle, followed up by a CPN warning. On the third occasion for repeat offenders a CPN is issued, should the offender have caused significant damage to the verge they are then recharged the cost of repair works. To date Stockton Council have issued 261 removal notices, 20 CPN warnings and only 1 full CPN which suggested the process had been successful in stopping repeat offenders. Middlesbrough Council was now in the process of implementing the use of CPNs for verge parking and other activities.

Public Space Protection Orders (PSPOs) - Contrary to Anti-social Behaviour, Crime and Policing Act 2014. Orders could be introduced in a specific public area by the Council to target

a range of different anti-social behaviour issues. PSPOs were intended to deal with a particular nuisance or problem in an area that negatively affected the local community's quality of life by imposing restrictions on certain types of behaviour. A PSPO was currently in place in all council owned cemeteries, Acklam crematorium and more recently in the TS1 area of the town, although this did not include verge parking restrictions. PSPOs could be enforced by Police Officers, Police Community Support Officers or any Officer designated by the Council for example; Street Wardens. Breach of a PSO could lead to a £25 on the spot fine or up to a £1000 fine if the charge went to court.

The Government had launched a consultation into pavement parking in a bid to solve a problem that posed inherent dangers for all pedestrians, particularly those with disabilities.

It outlined three options:

- improving the TRO process under which Councils can already prohibit pavement parking.
- a legislative change to allow Councils with civil parking enforcement powers to enforce against unnecessary obstruction of the pavement.
- a legislative change to introduce a London-style pavement parking prohibition throughout England (pavement parking has been prohibited in London since 1974 unless there was signage in place that specifically permitted it.)

The proposals were designed to improve the lives of people with mobility or sight impairments, as well as parents with prams who may be forced into the road to get around parked cars. The consultation period began on 31 August 2020 and ran until 22 November 2020.

The following queries raised by Panel Members were clarified:

- Vehicles that had a SORN could only be removed from the highway and not from private land, although the Council could work with landowners to have a vehicle removed.
- The Council received a block grant allocation from the Tees Valley Combined Authority (TVCA) to cover highways infrastructure to cover footways, verges, carriageway resurfacing, bridges and structures, flooding. The Environment Services Manager allocated this fund accordingly. However, there was also the potential to put a capital bid in for additional funding for verge maintenance. It was also noted that the additional enforcement measures such as CPNs might reduce the pressure on the capital works budget.
- A ward issue was raised in relation to a bus route, which was often obstructed, by double-parked cars and the Officers agreed to look into this.
- It was highlighted that some older estates owned by Housing Associations were originally designed to have minimum parking as they were intended as housing for older people. Whilst the Council could not force Housing Associations to provide additional parking, it was an issue that could be raised with them.
- In response to a request to look at priority for verge works around well used amenities, the Environment Services Manager commented that this could be reviewed in light of comments received at the meeting.
- It was confirmed that at the current time Section 106 funding could not be used generally for environmental improvements. The funding was provided for specific purposes in connection with the development it was awarded for.
- In relation to the Government's consultation on pavement parking, a Member commented that the focus should be on providing additional parking rather than enforcement.
- There was no law against residents parking their commercial vehicles at home, with the exception of any HGV vehicles over 7.5 Tonnes.
- The Council's Highways Service carried out a cyclic inspection of all grass verges to pick up any issues. Members could get in touch directly with the service to report any issues they were aware of.

The Chair thanked the Officers for the report and presentation.

AGREED that the information provided was received and noted.

3 **UPDATE ON THE LOCAL PLAN**

The Head of Planning was in attendance and provided an update on Middlesbrough Council's Local Plan. The Housing Local Plan was adopted in November 2014. There was a requirement to review the Local Plan every five years; however the Council decided to review that Plan in 2016 since certain parts of the Development Plan at that time still dated back to 1999.

In October 2018 the reviewed Local Plan reached publication stage. The Council approved the Plan and it went out to consultation in December 2018. A significant number of objections were raised, particularly from members of the public, and also from several statutory bodies including Historic England, Sport England and the Environment Agency. The Planning Advisory Service (PAS) were also consulted to look at the Plan to see whether there were any gaps in it prior to submission to the Secretary of State for approval. The Local Plan was due to be submitted in June 2019, following the Local Elections.

The PAS review also took into account the changes to the National Planning Policy Framework (NPPF) which were introduced in May 2019 and post-dated the publication of the draft Plan. The PAS reviewed noted that there were gaps in the evidence base and additional work needed to be completed prior to submission. There were also some policy gaps in the Plan primarily due to the change in the NPPF in 2019, in relation to affordable housing, strategic policy, effective use of land and the Plan period. The NPPF changes also included that the Local Plan had to cover 15 years beyond the adoption date. The Council had two options- to either continue with the submission or put it on hold.

Following the Local Elections in May 2019, and the subsequent changes in administration, the Publication Draft of the Local Plan was formally withdrawn in July 2019. The impact of withdrawing the Local Plan was not that significant since, as identified by PAS, there was additional work to be undertaken. One of the key concerns was the impact on the Council's ability to stop Developers dictating where house building would take place. The key test was whether Middlesbrough had a five year supply of land for house building and delivery. Middlesbrough still had around a seven year supply of housing land and the delivery test was also met. The Council did still need to have a new Local Plan in place to enable it to tackle its priorities.

The Council then had to review the evidence base on which the Local Plan was based and had therefore reviewed the following elements:

- Retail/Town centre.
- Housing Needs Study.
- Gypsies/Travelling show people assessment.
- Employment Land Review.
- Green Blue Infrastructure Strategy.
- Transport Study.
- Playing Pitch Strategy.

The revised timetable for adoption of the revised Local Plan was set out in the presentation and had anticipated adoption in Spring 2021. However, due to the Covid-19 pandemic, there had been a number of impacts on the timetable including engagement with communities, consultants and key stakeholders. A key area of that was the Employment Land Review as it was not possible to predict the employment sector going forward, what the priorities would be, or whether more people would be working at home. Similarly the retail study was produced prior to the impact of Covid-19, which had undoubtedly had a huge impact and created much uncertainty.

There had also been a number of national policy changes and the uncertainty around planning reforms had an impact on how the Local Plan was taken forward. In addition, as part of the NPPF there had been changes to how housing numbers were calculated in terms of the Local Plan.

The Council was currently revising the timetable for the Local Plan and re-engaging with the Member Working Group between now and Christmas. Consultation on the preferred options document was scheduled for January or February 2021 and this would lead to adoption of the Local Plan by March 2022. In essence the Local Plan had been delayed by approximately 12 months.

A concern was raised that not having a current Local Plan could inhibit the Council's control of house building. The Head of Planning confirmed that the Council was currently in a strong position as there was approximately seven years' supply of land available.

It was highlighted that the emerging Local Plan had intended to impose restrictions on hot food takeaways and large house conversions into flats. A recent planning application for a hot food takeaway that had been rejected by the Council's Planning Committee had been overturned on appeal by the Planning Inspectorate. A comment in the decision notice was that only limited weight was afforded to the Local Plan as it was only interim. The Head of Planning confirmed that the Planning Inspectorate could not give full weight to a Local Plan until it was formally adopted. One of the issues with the hot food takeaways policy was that the Council wanted to refine it further. It was also confirmed that both policies would be recommended for inclusion in the Plan.

Responding to a question on progress with the Plan, the Head of Planning confirmed that the current areas had been considered to date: Statement of Community Involvement, the Historic Environment, and the structure of Plan and how it aligned to the Council's Strategic Plan. The next area for review would be housing allocation.

AGREED that the information provided was received and noted.

4 **MIDDLESBROUGH REGENERATION POST COVID-19 SCRUTINY REVIEW**

The Head of Planning provided a presentation in relation to planning reforms and proposals in the recent Government White Paper.

Two key changes had been made in respect of Permitted Development Rights. For single storey dwellings there were now permitted development rights to add one storey and for two storey dwellings and discrete blocks of flats, an additional two storeys could be added. There were however a number of restrictions in place and prior approval from the Local Authority was required. Secondly, discreet offices and business buildings could be demolished and rebuilt as residential development or apartment blocks without the need for formal planning permission. Again similar restrictions applied and they could be limited to a maximum size of property that replaced them. Design was another prior approval issue that could be taken into consideration.

The Government had also introduced new use classes under the Use Classes Order. Class E for commercial business and service uses and Class F for local community and learning. Class E had been split down into 11 categories and it was possible to limit a use to within those use classes. It was not clear yet what the permitted development rights would be changing between each. At this moment in time the permitted development rights which were in existence before that new use class still applied. Hot food takeaways had been put into what was called 'sui generis' meaning that any change of use from, or to, a hot food takeaway would require planning permission and there were no associated permitted development rights. The importance of Class F, which was split into F1 - learning and non residential institutions and F2 - local community, was that the provision of local facilities was very important and key in developments. This provided a specific use class for such local facilities.

There were five key areas in the Planning Reform White Paper as follows:

- Streamline the planning process with more democracy taking place more effectively at the plan-making stage, and replacing the entire corpus of plan-making law.
- Take a radical, digital-first approach to modernise the planning process, moving from a process based on documents to a process driven by data.
- To bring a new focus on design and sustainability.
- Improve infrastructure delivery and ensure developers play their part, through reform

of developer contributions.

- To ensure more land is available for the homes and development people and communities need, and to support renewal of town and city centres.

The white paper was broken down into three pillars:

Pillar One: Planning for Development, had ten proposals:

1. Simplifying local plans.
2. Development management policies set at national level.
3. Local Plan subject to a single statutory 'sustainable development' test.
4. Standard method for establishing housing requirement figures.
5. Automatic planning permission for areas of growth.
6. Decision making should be faster.
7. Local Plans should be visual, map-based, and standardised.
8. Statutory timetable for preparing Local Plans.
9. Neighbourhood plans to be retained.
10. Stronger emphasis on build out through planning.

Pillar Two: Planning for beautiful and sustainable places, had eight proposals:

11. Establishment of binding local design guidance and codes
12. Establish a national body to support design coding and building better places.
13. Design to be given greater emphasis in the strategic objectives for Homes England.
14. A fast-track for beauty.
15. Amend NPPF to more effectively mitigate and adapt to climate change.
16. Simpler framework for assessing environmental impacts.
17. Conserving and enhancing our historic buildings and areas.
18. Improvements in energy efficiency standards for buildings.

Pillar Three: Planning for infrastructure and connected places, had six proposals:

19. Introduction of a reformed extended infrastructure levy.
20. Scope of infrastructure levy extended to capture changes under PD rights.
21. Reformed infrastructure levy should deliver affordable housing provision.
22. More freedom given to Local Authorities as to how they spend the levy.
23. Develop a comprehensive resources and skills strategy for the planning sector.
24. Strengthen enforcement powers and sanctions.

Other proposed reforms included:

- Revised standard method for calculating housing need.
- Delivering First Homes - discounted to First Time Buyers and Key Workers.
- Removing the Section 106 burden on small sites to support Small and Medium Enterprises.
- Extending Permission in Principle to major schemes.

The Head of Planning provided further detail on the proposals at the meeting. One issue highlighted was the 13 week timescale for a planning application to be approved, with a penalty of having to refund the fee if the timescale was not met by the Local Authority. The Head of Planning commented that whilst the Planning Department had a good record in this area, the development industry needed to play its part in ensuring that applications had been properly assessed before submission.

Concern was raised in relation to the Planning Committee having less control over planning applications. It was clarified that automatic permission was only intended for outline applications and the details would still need to be submitted for approval. Queries were also raised in relation to the infrastructure levy, land banking and introduction of a fast-track for beauty.

Finally, the Head of Planning commented that whilst the White Paper set out the principles for reform, the detail with regard to how the proposals would be implemented had not yet been published.

Members discussed draft terms of reference for the current review of Middlesbrough Regeneration Post Covid-19.

AGREED as follows:

1. That the information provided was received and noted.
2. The following terms of reference for the review of Middlesbrough Regeneration Post Covid-19 Review were approved:
 - A) To investigate what resources will be required to implement proposed regeneration schemes and what contributions are available and/or required from Central Government, Middlesbrough Council, the private sector and other stakeholders.
 - B) To examine Middlesbrough Council's current proposals for the regeneration of the town including plans for retail, leisure, housing, urban living, education, enterprise, communication, transport and connectivity, post Covid-19.
 - C) To consider how to ensure that proposed regeneration schemes are accessible, environmentally friendly, sustainable, and at the same time drive social and economic growth.

5 OVERVIEW AND SCRUTINY BOARD UPDATE

The Chair provided a verbal update on items considered at the Overview and Scrutiny Board meeting held on 5 November 2020.

6 DATE OF NEXT MEETING - WEDNESDAY 16 DECEMBER 2020 - 10.30 AM

The next meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel would be held at 10.30 am on Wednesday 16 December 2020.

7 ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED

CityFibre

Following a recent announcement that CityFibre would be investing £42 million in superfast broadband in Middlesbrough, the Panel was informed that a presentation about the programme had been arranged for the Scrutiny Panel's meeting in January 2021.

Scrutiny Training

The Panel were reminded that scrutiny training for all Members had been arranged as follows:

- Effective Questioning Skills - 26 November 2020 - 3.30 pm
- Scrutiny Work Programme Planning - 2 December 2020 - 3.30 pm

All Members were encouraged to attend the sessions which would be held virtually via Webex.

Health and Communities and Culture Scrutiny Panels

The Panel was advised that in their current year work programmes, Health Scrutiny Panel had selected the topic of Inclusive Growth - Alignment of Town Regeneration and Health Goals, and the Communities and Culture Scrutiny Panel were reviewing Cultural Events. The potential for some joint working on the Economic Development, Environment and Infrastructure Scrutiny Panel's topic of Middlesbrough Regeneration Post Covid-19 with both Panels was highlighted and noted.