

# North Tyneside Council

## Report to Cabinet

### 8 December 2014

**ITEM 6(e)**  
Detailed Response to  
Recommendations from  
Local Plan Sub Group -  
Review of Scaffold Hill  
Application and Appeal

**Portfolio(s):** Housing & Environment

**Cabinet Member(s):** Councillor John Harrison

**Report from Service Area:**

Environment & Leisure

**Responsible Officer:**

Phil Scott – Head of Environment & Leisure

**Tel:** (0191) 6437295

**Wards affected:**

All wards

## **PART 1**

### **1.1 Purpose:**

- 1.1.1 Cabinet considered a report from the Overview, Scrutiny and Policy Development Committee at its meeting on 13 October 2014 following a review by its Local Plan Sub-Group into the Scaffold Hill Planning Application. The review followed the agreement of a Motion by Council at its meeting on 14 March 2013.
- 1.1.2 The Overview, Scrutiny and Policy Development Committee, having initially reviewed the recommendations of the Sub Group, set out five recommendations for Cabinet to review and consider. This report sets out the response to the recommendations in order that a response can be provided to the Overview, Scrutiny and Policy Development Committee within the required time frame.

### **1.2 Recommendation(s):**

- 1.2.1 It is recommended that Cabinet agree the responses to the recommendations as set out in 1.5.2 of the report, agree their implementation within the next 6 months and refer the responses to the Overview, Scrutiny and Policy Development Committee.

### **1.3 Forward Plan**

This report first appeared on the Forward Plan that was published on 11 November 2014. It has not been practicable to give twenty eight days notice of this report; however, it is required to be considered without the twenty eight days notice being given because of the requirement for Cabinet to provide a response to the recommendations of the Overview, Scrutiny and Policy Development Committee within a two month period.

## **1.4 Council Plan and Policy Framework**

This report links to 'Our North Tyneside' Council Plan, particularly to Priority 2 – Our Places – to develop an effective strategy to ensure that there is sufficient good quality housing across North Tyneside to meet the identified need, as outlined in the 2013/14 Action Plan.

## **1.5 Information**

### **1.5.1 Background information**

This report relates to a planning application, referred to as the Scaffold Hill application, for the development of 450 dwellings, retail units, a surgery and a 42 hectare extension to the Rising Sun Country Park. The application was submitted in August 2011 and, after a long period of deliberation, was considered by the Authority's Planning Committee in August 2012 when the Committee, contrary to the advice of officers, resolved to refuse planning permission for the development for six reasons.

An appeal against this decision was lodged by the applicant in November 2012. With the agreement of the Planning Committee, only three of the original refusal reasons were to be defended by the Authority. The appeal was dealt with at a public inquiry which commenced in February 2013. Immediately prior to inquiry commencing, it became apparent that an error had been made in the transport modelling which formed part of the basis of the case being presented to defend the refusal reason relating to the impact of the development on the local highway network. The error in the modeling was such that, when corrected, the model could no longer support the highway case which was to be presented at the inquiry.

On the advice of the barrister acting for the Authority and in light of the high risk of a substantial award of costs being made against the Authority for failure to defend the remaining reasons for refusal, the highway reason and the two other remaining reasons, were withdrawn. The appeal was subsequently allowed in July 2013. No award of costs against the Authority was applied for.

In March 2013, the following Motion was agreed at a meeting of the Council:

"The very recent Planning Appeal (re Scaffold Hill Farm proposals) that caused the Authority to withdraw from the appeal altogether as a consequence of information coming to light at a very late stage, in fact the evening before the appeal was to be held, so placing the Authority in a very difficult position both financially and also the risk of the appeal process."

Council resolved that an urgent review be taken by the Overview and Scrutiny Committee in to how the planning application was processed and into the information that was submitted and considered by Officers and Planning Committee members, including the analysis of evidence and preparation for the planning Inspector's Appeal hearing.

This review has resulted in five recommendations being made. These have been considered and advice as to whether and how the recommendations can be implemented is set out below.

## 1.5.2 Response to Recommendations

Recommendations	Responses
<p><b>(1) That the relevant Cabinet Member monitors the impact of the revised systems that have been put in place in relation to traffic modelling to ensure they are effective in preventing future errors occurring.</b></p>	<p>A new process has been developed and implemented that reduces the risk of a similar error occurring when examining future major planning applications. This includes:</p> <ul style="list-style-type: none"> <li>• A process map to ensure that all information and data can be independently checked and validated at various stages throughout the modelling process; and</li> <li>• A requirement for sign-off from a senior technical officer at each key stage.</li> </ul> <p>In response to the recommendation it is proposed that the Cabinet Member, Housing and Environment will review the next six major planning applications to check that the new system works. After this there will be a review by the Cabinet Member as to whether an annual monitoring report should be provided.</p>
<p><b>(2) That Officers, in consultation with the Chair of the Planning Committee, consider whether the transport model could be introduced as a visual aid at Planning Committee where it would assist Members of the Committee in understanding the traffic impacts of proposed large developments and aid the understanding of the possible cumulative impact any such developments would have on local amenities such as accessing education and health facilities in the borough;</b></p>	<p>Since the Sub Group review, the transport model has already been successfully used as a visual aid to assist Planning Committee to understand the traffic impacts of another major housing development proposal relating to land at Station Road East, Wallsend.</p> <p>Its further use will be agreed on a site by site basis in consultation with the Chair of Planning Committee, the Planning Manager and the Team Leader New Developments.</p>
<p><b>(3) That the relevant Cabinet Member explore with officers whether the transport model could be made available to developers on a fee basis as part of the planning application process.</b></p>	<p>This opportunity is already being explored. It is not possible to require developers to use the Authority's transport model, but in preparing evidence for the appeal against the refusal of permission to develop land at Station Road East, agreement that the Authority's transport model would be utilised by both parties formed part of the Statement of Common Ground. This narrowed down areas of disagreement in the appeal process. This helped to speed up the consideration process and reduce</p>

Recommendations	Responses
	<p>potential costs for all parties. Making the model available will be agreed on a site by site basis with the Team Leader New Developments and the applicant (or appellant).</p> <p>A draft scale of fees is currently being developed which will be agreed with the Cabinet Member, Housing and Environment prior to the 31<sup>st</sup> March 2015. These fees will include an element to offset the costs of maintaining the transport model.</p>
<p><b>(4) That Cabinet review the Authority's consultation policy, particularly in relation to planning matters, and ensure that processes are transparent and that wider consultation is undertaken to include children and young people in addition to residents to have real input into the process and to observe that their contributions are being respected.</b></p>	<p>A summary of the Authority's consultation policy in relation to planning, as last revised and agreed by Cabinet on 9 September 2013 as part of the Statement of Community Involvement is attached at Appendix 1.</p> <p>In response to the recommendation, it is proposed that a report will be provided for the Cabinet Member, Housing and Environment in the next six months to advise whether further review of the Statement of Community Involvement (SCI) is required. This will follow the next stage of community engagement on the Local Plan planned for February to March 2015.</p> <p>The review will feed back on any new opportunities identified to engage more successfully with local schools on planning matters.</p>
<p><b>(5) That the above recommendations are implemented within the next 6 months.</b></p>	<p>The actions described above will be implemented within the next six months.</p>

## 1.6 Decision options:

The following options are available for consideration by Cabinet:

### Option 1

Consider the responses to the recommendations and advise the Overview, Scrutiny and Policy Development Committee that the actions proposed will be implemented within the next six months.

### Option 2

Consider the responses to the recommendations and advise the Overview, Scrutiny and Policy Development Committee that no or different actions are proposed as a result.

## **1.7 Reasons for recommended option:**

Option 1 is recommended for the following reasons:

The responses to the recommendations identify a range of simple measures that can be used in a manner proportionate to the proposals and projects being considered. These represent a cost effective means to provide the desired safeguards and improve both Members' understanding of the impacts of major new development and ensure that community engagement on planning matters reflects current legislation and offers the most effective opportunities for communities to become involved.

## **1.8 Appendices:**

Appendix 1: Summary of the Authority's consultation policy in relation to planning

## **1.9 Contact officers::**

Jackie Palmer, Planning Manager tel. (0191) 643 3663  
Andrew Flynn, Integrated Transport Manager tel. (0191) 643 6083  
Catherine Lyons, Regulatory Services Manager, tel. (0191) 643 7780  
Alison Campbell, Finance Business Manager, tel. (0191) 643 7038

## **1.10 Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

1. [Overview and Scrutiny Report - Report of the Local Plan Sub Group: Review of the Council's Processes – Scaffold Hill Planning Application and Appeal](#)
2. [Town & Country Planning Act 1990 \(as amended\)](#)
3. [North Tyneside Council Statement of Community Involvement \(August 2013\)](#)
4. [Town & Country Planning \(Development Management Procedure\) Order 2010 \(as amended\)](#)
5. [National Planning Policy Framework](#)
6. [National Planning Practice Guidance](#)

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

Recommendations 1-4 will be implemented within existing resources. The transport models will be made available to applicants and developers for a rate that will include an element of costs to maintain the model and ensure it remains up to date and robust. Any required increase in the cost of engagement would be contained within existing budgets.

### **2.2 Legal**

There no direct legal implications arising from this report.

### **2.3 Consultation/community engagement**

Consultation on the review carried out by the Local Plan Sub Group involved council officers, partners (Capita) and resident representatives. The implementation of recommendations 1-4 would involve officers in consultation with the Cabinet Member, Housing and environment and/or the Chair of Planning Committee as required. Any revision to the Statement of Community Engagement would include full community consultation.

## 2.4 Human rights

There are no human rights implications directly arising from this report.

## 2.5 Equalities and diversity

There are no equalities and diversity implications directly arising from this report.

## 2.6 Risk management

There are no direct issues relating to risk arising from this report.

## 2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

## 2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

### PART 3 - SIGN OFF

- Deputy Chief Executive
- Head of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy

## **Summary the Authority's current consultation policy in relation to planning matters**

Consultation policy in relation to planning matters, both in relation to the Local Plan and individual planning applications is set out in the published "Statement of Community Involvement". This is reviewed regularly, the most recent review being completed in September 2013.

The Statement of Community Involvement (SCI) sets out how and when the Authority will involve the local community in preparing planning documents and processing planning applications. It is designed to enable and encourage communities to play a more active role throughout the planning process in creating places where people want to live and work. The Authority is legally obliged to comply with its statement of community involvement, once it is finalised.

The SCI sets out six main objectives:

- Place the community at the heart of planning decisions
- Help people to understand planning and make planning documents more accessible through the use of plain English.
- Provide consistent feedback from the planning process whilst always considering everyone's views.
- Be open, honest and approachable
- Deliver a flexible planning system, able to respond quickly to changing local circumstances.
- Help to achieve sustainable development

To meet these objectives, it sets out specific opportunities for engaging with the harder to reach groups within the community, including children and young people. This includes working with the Young Mayor.

The SCI recognises that a consensus on planning issues cannot always be found. Where conflicting views cannot be resolved the Council will take into account the various points of view and will aim to take a balanced, reasoned decision based on the full facts.

Planning applications are subject to statutory publicity requirements which, depending on the scale of proposed development, comprise a combination of notification letters, notices posted on and around an application site and notices in the local press. Applications are made available on line and can be inspected at our Quadrant offices. Residents have a statutory 21 days from being notified of an application to make representations but usually there is a much longer opportunity as representations received up until the day a decision is made will be considered. A balance has to be struck between engaging with the community whilst still determining applications within statutory time periods. To provide more certainty, a published neighbour consultation protocol explains to residents which method of notification would be used for different types of application and how far consultation would extend.

When considering planning applications, comprehensive reports are prepared for all planning applications. These summarise all the representations received from the community in relation to each planning application and present a balanced recommendation and advice as to the weight which can be attached to issues raised. All major proposals are considered by the Planning Committee and residents are also offered the opportunity to speak at the Committee

meeting so that their views can be heard by members of the Committee during the decision making process.

In delivering the Local Development Scheme, planning documents are also subject to extensive community engagement. Consultation carried out in relation to the Draft Local Plan during November 2013 to January 2014 included a summary leaflet distributed to all households in the Borough (which included a freepost reply form to allow people to submit comments) as well as direct post and email notification to over 3100 consultees. A range of events were held including twenty ward events and eight town centre drop in events.

For each stage of preparing the Local Plan, a 'Statement of Consultation' will be published setting out the full range of engagement techniques undertaken. When preparing this Statement of Consultation, officers evaluate the effectiveness of the previous techniques undertaken when planning future engagement activities.

In recent years opportunities for electronic consultation have been significantly improved. In addition to planning application submissions being available to view on line with an option for representations to be made using the web site, the Authority's existing and emerging planning policy documents, are also available on-line. The most recent consultation on the Draft Local Plan (2013-2014) offered residents the opportunity to both view and respond to the document on-line as well as being able to see responses from other parties. This approach was also used to good effect when consulting upon a range of other recent draft planning documents including the Port of Tyne Local Development Order (November 2013) and the Tynemouth Conservation Area Management Strategy (February 2014).

All the comments received as a result of consultation exercises will be considered and a response to key issues published when decisions are made, informing all respondents.

The success of community engagement is carefully and consistently monitored. In relation to the Local Plan consultation events, attendance levels are monitored so that future events can be planned in the best locations and at the best times. Feedback provided from residents is considered in improving how future engagement is undertaken. The approach to community engagement should not be that of "one size fits all" but rather about offering a range of different opportunities for people to access planning information and communicate on it. The approach needs to be proportionate to each issue and reflect the timescales within which projects and proposals have to be delivered.

In this context, it is considered that current consultation arrangements are already transparent and sufficiently wide ranging to encourage all sectors of the community to be involved in planning decisions. Whilst it is not always possible to reach consensus on planning issues, measures are in place to inform those who have been involved as to the outcome of the decision making process.

The Authority's first SCI was adopted in May 2010 (which itself was consulted upon and the subject of independent scrutiny by a planning Inspector). A full review was undertaken in 2013 to take account of significant legislative and procedural changes made to the planning system, but also to the effectiveness of the various engagement techniques contained therein, to allow for improvements in the way the Authority involves the community on planning matters. Following its own consultation exercise, the SCI was subsequently adopted in September 2013.

Given the SCI is only some 11 months into its implementation no review timetable was proposed in the Local Development Scheme, which was agreed by Cabinet on 13 October 2014. The potential need for future update is however kept under regular review.