

North Tyneside Council Report to Council 22 January 2015

ITEM 9

Motion to Council -
Review of Scaffold Hill
Application and Appeal

Portfolio(s): Housing & Environment

Cabinet Member(s): Councillor John Harrison

Report from Service

Area: Law and Governance

Responsible Officer: Vivienne Geary – Head of Law and Governance
Tel: (0191) 6435339

Wards affected: All Wards

PART 1

1.1 Purpose:

In accordance with the terms of a Motion that was approved by Council at its meeting held on 14 March 2013, a report of the Overview, Scrutiny and Policy Development Committee following a review undertaken by its Local Plan Sub-group in relation to the Scaffold Hill planning application is submitted for Members' consideration.

1.2 Recommendation(s):

It is recommended that Council notes the report of the Overview, Scrutiny and Policy Development Committee and subsequent response by Cabinet.

1.3 Forward Plan

This report first appeared on the Forward Plan that was published on 12 January 2015.

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

Background information

1.5.1 The following Motion was approved by the Council at its meeting held on 14 March 2013:

“The very recent Planning Appeal that caused the Council 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 Council in a very difficult position both financially and also the risk of the appeal process.

Council therefore resolves that an urgent review be taken by the Overview and Scrutiny Committee into how the planning application was processed, 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. A report should be produced by Overview and Scrutiny and presented to the Full Council for consideration and discussion.”

- 1.5.2 In accordance with the Motion, the Local Plan Sub-group was asked to review the processes in relation to the Scaffold Hill planning application and subsequent planning appeal.
- 1.5.3 The Overview, Scrutiny and Policy Development Committee received the Sub-group’s report at its meeting on 1 September 2014 and following discussion agreed to amend two recommendations to reflect the benefits of expanding the traffic flow modelling to illustrate the cumulative impact of traffic movements throughout the Borough and the inclusion of children and young people in consultation exercises of this nature.
- 1.5.4 Cabinet received the report from the Overview, Scrutiny and Policy Development Committee at its meeting on 13 October 2014 (attached as Appendix A). 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.
- 1.5.5 At its meeting held on 8 December, 2014 Cabinet received a report setting out a proposed response to the recommendations in order that a response could be provided to the Overview, Scrutiny and Policy Development Committee within the required two-month period (attached as Appendix B).
- 1.5.6 Cabinet agreed the responses to the recommendations as set out in paragraph 1.5.2 of that report and agreed to their implementation within 6 months.
- 1.5.7 The Cabinet’s responses were noted by the Overview, Scrutiny and Policy Development Committee at its meeting held on 5 January 2015.

1.6 Decision options:

There are no decision options as this report is submitted for Council’s information only.

1.7 Reasons for recommended option:

Not applicable.

1.8 Appendices:

Appendix A: Report of the Overview, Scrutiny and Policy Development Committee to Cabinet on 13 October 2014: Report of the Local Plan Sub-group: Review of the Council’s Processes – Scaffold Hill Planning Application.

Appendix B: Report to Cabinet 8 December 2014: Detailed Response to Recommendations from Local Plan Sub Group - Review of Scaffold Hill Application and Appeal.

1.9 Contact officers:

Dave Brown, Democratic Services tel. (0191) 643 5358

Alison Campbell, Finance and Commercial Services 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:

- a) Report of the Local Plan Sub Group to Overview, Scrutiny and Policy Development Committee, 1 September 2014: Review of the Council's Processes – Scaffold Hill Planning Application
- b) Report of the Overview, Scrutiny and Policy Development Committee to Cabinet on 13 October 2014: Report of the Local Plan Sub-group: Review of the Council's Processes – Scaffold Hill Planning Application (attached as Appendix A).
- c) Report to Cabinet 8 December 2014: Detailed Response to Recommendations from Local Plan Sub Group - Review of Scaffold Hill Application and Appeal (attached as Appendix B).

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no direct financial implications arising from this report. Financial implications were detailed in the report to Cabinet.

2.2 Legal

There are no direct legal implications arising from this report.

2.3 Consultation/community engagement

The Overview and Scrutiny report is being submitted to Full Council as required by the terms of the Council Motion.

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

Item 5(a)
Report of the Local
Plan Sub-group:
Review of the
Council's Processes –
Scaffold Hill Planning
Application

North Tyneside Council Report to Cabinet 13 October 2014

Portfolio(s): Housing and Environment

Cabinet Member(s): Cllr John Harrison

Report from: Overview, Scrutiny & Policy Development Committee

Wards affected: All

PART 1

1.11 Purpose:

1.11.1 The purpose of this report is to present the recommendations of the Overview, Scrutiny & Policy Development Committee in relation to its Local Plan Sub-group study into Review of the Council's Processes – Scaffold Hill Planning Application.

1.1.2 In accordance with Section 21B of the Local Government Act 2000, Cabinet are required to provide a response to the recommendations of the Overview and Scrutiny Committee within two months. In providing this response Cabinet is asked to state whether or not it accepts each recommendation and the reasons for this decision. Cabinet must also indicate what action, if any, it proposes to take.

1.12 Recommendation(s):

1.2.1 It is recommended that Cabinet consider and formulate a response to the recommendations set out in the Local Plan Sub-group: Review of the Council's Processes – Scaffold Hill Planning Application report.

1.13 Forward plan:

1.3.1 The report was included in the forward plan for the period 15 September 2014 – 31 December 2014 under the matters arising from Overview, Scrutiny & Policy Development Committee and its sub committees heading.

1.14 Council plan and policy framework

1.14.1 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.

1.15 Information:

Background information

1.15.1 The Local Plan Sub-group was asked to review the processes in relation to the Scaffold Hill planning application and subsequent planning appeal. This followed the agreement of the Council Motion set out below which was considered by Council on 14 March 2013:

“The very recent Planning Appeal (re Scaffold Hill Farm proposals) that caused the Council 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 Council in a very difficult position both financially and also the risk of the appeal process.

Council therefore resolves that an urgent review be taken by the Overview and Scrutiny Committee into how the planning application was processed, 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. A report should be produced by Overview and Scrutiny and presented to the Full Council for consideration and discussion.”

1.15.2 As part of the review the sub-group received background information from officers on the planning application and appeal. This included detailed information on:

- the legislative position around planning decisions and the appeals process;
- the chronology of events around the Scaffold Hill Farm Planning application determination and subsequent appeal process;
- information on the evidence prepared for the appeal by the highways consultant acting for the council;
- How processes have been reviewed and action put into practice in dealing with subsequent applications.

1.5.3 The Sub-group also:

- Had discussions with the highways consultant who was appointed by the Council to support the appeal;
- Considered written and verbal comments from relevant ward councillors;
- Met with representatives of the Holystone Action Group, a residents group that had campaigned against the development at Scaffold Hill and were in attendance at the appeal hearing.

1.5.4 Overview, Scrutiny and Policy Development Committee received the report at its meeting on the 1 September 2014 and following discussion agreed to amend 2 recommendations to reflect the benefits of expanding the traffic flow modelling to illustrate the cumulative impact of traffic movements throughout the Borough and the inclusion of children & young people in consultation exercises of this nature.

1.5.5 The full report which outlines the key findings, conclusions and recommendations of the review is attached at Appendix 1.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet may accept the recommendations set out in paragraph 1.2 above.

Option 2

Cabinet may not accept the recommendations set out in paragraph 1.2 above.

Option 3

Cabinet may accept part of the recommendations as set out in paragraph 1.2 above and reject the rest.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

1.7.1 Option 1 is recommended by Overview, Scrutiny & Policy Development.

1.7.2 Cabinet are asked to provide reasons for any recommendations which are not approved.

1.8 Appendices:

Appendix 1: Report of the local Plan Sub-group: Review of the Council's Processes – Scaffold Hill Planning Application

1.9 Contact officers:

Jackie Palmer – Planning Manager, Capita
Andrew Flynn – Integrated Transport Manager

Background information:

Report of the local Plan Sub-group: Review of the Council's Processes – Scaffold Hill Planning Application.

Overview, Scrutiny & Policy Development Committee – Minutes 1 September 2014

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no financial implications at this stage.

2.2 Legal

2.21 In accordance with Section 21B of the Local Government Act 2000, Cabinet are required to provide a response to the recommendations of the Overview, Scrutiny & Policy Development Committee within two months. In providing this response Cabinet is asked to state whether or not it accepts each recommendation and the reasons for this decision. Cabinet must also indicate what action, if any, it proposes to take.

2.3 Consultation/community engagement

2.3.1 Consultation for the review was undertaken with council officers, partners (Capita) and resident representatives.

2.4 Human rights

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

2.5 Equalities and diversity

There are no direct issues relating to equalities and diversity 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 direct issues relating to crime & disorder arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications at this stage.

PART 3

The following officers and Members have been sent a copy of the report for their information:

- *Mayor/Cabinet Member*
- *Chief Executive*
- *Strategic Manager (Finance)*
- *Monitoring Officer*
- *Head of Corporate Strategy*

Overview and Scrutiny Report

Report of the Local Plan Sub-group: Review of the Council's Processes – Scaffold Hill Planning Application and Appeal

April 2014 (amended recommendations September 2014)



- 1.2 The Sub-group agreed to consider this matter once it had completed its review of the Local Plan. The sub-group therefore began work on this matter in November 2013.
- 1.3 The Sub-group identified a number of recommendations to address issues identified during the review that were considered at the Overview, Scrutiny & Policy Development Committee on the 1 September 2014.

The Committee agreed to amend 2 recommendations to reflect the benefit of expanding the traffic flow modelling to illustrate the cumulative impact of traffic movements throughout the Borough and the inclusion of children & young people in consultation exercises of this nature.

Recommendations

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.
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;
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.
4	That Cabinet review the Council's consultation policy, particularly in relation to planning matters, and ensure that processes are transparent and that wider consultation is undertaken to include children & young people in addition to residents to have real input into the process and to observe that their contributions are being respected.
5	That the above recommendations are implemented within the next 6 months.

2. Background to the study

2.1 The Local Plan Sub-group was asked to review the processes in relation to the Scaffold Hill planning application and subsequent planning appeal. This was a result of the following Council Motion which was agreed at a meeting of the Council on 14 March 2013:

“The very recent Planning Appeal (re Scaffold Hill Farm proposals) that caused the Council 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 Council in a very difficult position both financially and also the risk of the appeal process.

Council therefore resolves that an urgent review be taken by the Overview and Scrutiny Committee into how the planning application was processed, 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. A report should be produced by Overview and Scrutiny and presented to the Full Council for consideration and discussion.”

2.2 The Local Plan Sub-group was originally set up to review the developing Local Plan. The Sub-group was unable to begin this review of the Scaffold Hill Planning application until work on the Local Plan review was complete.

2.3 The original membership of the Local Plan Sub-group was:

Councillor J Allan (Chair)
Councillor B Burdis
Councillor M Huscroft
Councillor J O’Shea
Councillor M Rankin

This review has been completed with the primary involvement of Cllrs J Allan and J O’Shea.

3. Methodology

3.1 The remit of the sub-group was to review the Council’s processes in dealing with the planning application and subsequent planning appeal in relation to Scaffold Hill Farm with a view to identifying recommendations to address the issues raised by the review. These would be reported back to the Overview and Scrutiny Committee and to full Council.

3.2 As part of the review the sub-group received background information from officers on the planning application and appeal. This included detailed information on:

- the legislative position around planning decisions and the appeals process;
- the chronology of events around the Scaffold Hill Farm Planning application determination and subsequent appeal process;
- information on the evidence prepared for the appeal by the highways consultant acting for the council;

- How processes have been reviewed and action put into practice in dealing with subsequent applications.

3.3 The Sub-group also:

- Had discussions with the highways consultant who was appointed by the Council to support the appeal;
- Considered written and verbal comments from relevant ward councillors;
- Met with representatives of the Holystone Action Group, a residents group that had campaigned against the development at Scaffold Hill and were in attendance at the appeal hearing.

3.4 The group met on 5 occasions to complete the review.

Findings/Evidence

4. Introduction to the Planning application and Timeline

4.1 At the beginning of the review the group received information on the original application and a timeline of events as follows.

Planning application Determination Process

4.2 The Sub-group noted that the planning application referred to a site comprising 64 ha of land to the north of the Rising Sun Country Park (RSCP) and east of the A191 Holystone bypass, and extending eastwards to the A19 and northwards to the hotel and public house close to the Holystone roundabout. It comprised open fields separated by hedgerows which were used for agriculture and grazing.

4.3 The application sought permission for 450 dwellings (including 113 affordable homes), retail units, a surgery and a 42 ha extension to the RSCP. A play area and Multi Use Games Area and 101 allotments were also proposed.

4.4 The planning application was originally submitted by the applicant on 1 August 2011. There then followed a lengthy period of consideration and exchange of information between the applicant and the Local Planning Authority to ensure that the impact of the development on traffic, flood risk, noise, ecology and local infrastructure had all been comprehensively assessed. During this time amended plans were submitted by the applicant to address issues raised.

4.5 The application was reported to the planning committee on 21 August 2012 with a recommendation from planning officers to approve the application, subject to some conditions and a Section 106 legal agreement.

4.6 The Sub-group was informed that the Planning Committee had been advised that they should consider carefully the balance of issues before them and the need to take into account the most recent National policy within the National Planning Policy framework (NPPF) and the weight to be accorded to this. Specifically the NPPF states that Local Planning Authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible.

- 4.7 The Sub-group noted that planning guidance does recognise that the Planning Committee is not bound to accept the recommendation of its officers but it is clear that where professional advice is not followed, the Committee will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence at appeal. Failing to do this may result in costs being awarded at appeal.
- 4.8 At the meeting the Planning Committee resolved to refuse planning permission contrary to the recommendations for the following 6 reasons:
1. The proposal would lead to the loss of open space and have a detrimental impact on the ecology and habitat of the site and the Country Park contrary to the National Planning Policy Framework and Policies R2/1, R2/2 and E12/6 of the North Tyneside Unitary Development Plan.
 2. The proposal would lead to loss of high quality employment land in proximity to the A19 contrary to Policies LE1/3 and LE1/4 of the North Tyneside Unitary Development Plan.
 3. The proposal would result in the development of a Greenfield site for housing therefore the principle of residential development on this site is contrary to Policy H5 of the North Tyneside Unitary Development Plan 2002.
 4. The proposal would lead to severe traffic impacts on the road network and would therefore be contrary to advice set out in the National Planning Policy Framework and Policy H11 of the North Tyneside Unitary Development Plan 2002.
 5. Insufficient information has been submitted to demonstrate that the proposed sustainable urban drainage system will be implemented and managed to a satisfactory standard to prevent the risk of flooding, contrary to the National Planning Policy Framework and Policy H11 of the North Tyneside Unitary Development Plan 2002.
 6. The proposal would have a detrimental visual impact on the character of the area, including the Risking Sun Country Park, contrary to Policy H11 of the North Tyneside Unitary Development Plan.

Appeal Process

- 4.9 The applicant lodged an appeal against the Council's decision in November 2012. The appeal was called in by the Secretary of State for his own determination on the basis of the scale of the development and its impact on government objectives to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. The Planning Inspectorate agreed that the appeal should be dealt with by way of public inquiry and this was scheduled to begin on 26 February 2013.

Appointment of Consultant

- 4.10 At the point that the applicant lodged the appeal, the Council appointed an external Consultant, Capita Symonds, to defend the Planning Committee's decision to turn down the application on the basis of traffic impacts. It was necessary to appoint an external consultant for this purpose as Council officers had already given their professional advice to the Planning Committee and this was contrary to the decision taken by the Committee.

The Consultants also provided advice on the other grounds identified by the Planning Committee for refusal.

- 4.11 Following the appointment of Capita Symonds, a Highways Engineer from Capita Symonds reviewed the highways impact post-decision and undertook further traffic modelling. On the basis of this work, he advised that the traffic impact of the proposal would be 'severe', contrary to paragraph 32 of the NPPF.

Advice to the Planning Committee

- 4.12 The Council instructed a barrister to represent it at the appeal. Specific advice was requested from the barrister in November 2012 about how best to progress the case, given that the decision of the committee was made contrary to the advice of its professional officers, and the strength of each of the reasons for refusal.
- 4.13 The advice of the barrister was reported to the Planning Committee on 4 December. Having considered this advice the Committee resolved that reasons 2 and 3 and part (b) of reason 1 should be withdrawn and not pursued at appeal. The appeal case for the authority would therefore be progressed on the basis of reasons 4, 5 and 6 and part (a) of reason 1. The inspectorate and the appellant were advised of this decision.
- 4.14 During the course of preparing evidence, the appellant provided additional information regarding the proposed drainage and SUDs arrangements for the development and information about its future maintenance. This additional information was reviewed by Council Officers and their drainage consultants (Capita Symonds) who advised that the proposals were acceptable. In this context, with the authority's outstanding concerns about flood risk having been addressed, a further confidential report was presented to the Planning Committee on 29 January, recommending that reason 5 not be pursued at the appeal.
- 4.15 The Planning Committee agreed this recommendation.
- 4.16 Therefore the appeal was to be progressed on the basis of the three remaining reasons for refusal.

Public Inquiry

- 4.17 In advance of the opening of the inquiry on 26 February 2013, the barrister and witnesses for the Council met to make final preparations for the inquiry on the evening prior.
- 4.18 During discussions it became apparent that an error had been made in the transport model in relation to the 2021 base line traffic flows. An element of double counting of vehicle trip rates from the site had occurred in the transport modelling review by the Consultant, and the vehicle trip rates for both the existing employment permission and the proposed residential development had been included. The trip rates from the existing employment permission on the site should not have been included within the modelling exercise.
- 4.19 NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are 'severe'.
- 4.20 Once this error was rectified within the transport model it significantly reduced the queue length estimate at A19/Holystone roundabout junction and on this basis the consultants

felt unable to argue at appeal that the impact of the development on the road network was 'severe'.

- 4.21 The barrister informed the Council's representatives on the morning of 26 February 2013 that the appeal case on highway impact grounds was no longer viable. He sought instruction from the Council.
- 4.22 A telephone conversation took place between the Council's solicitor, planning manager and the Chair of the Planning Committee. The Chair of the Planning Committee took the view that in the light of the significant risk of costs being awarded against the Council that the highway reason should not be pursued and the appellant be advised accordingly.
- 4.23 The appellant's barrister was advised of the Council's position. The appellant's barrister advised at the time that if the Council agreed not to pursue the remaining reasons that the appellant would not make an application for an award of costs against the Council. He estimated that the appellant's costs at that point stood at around £250,000.
- 4.24 Further discussions took place within the Council. The Council's barrister advised that the remaining 2 reasons did not satisfy the tests of the NPPF and that to pursue them would be likely to result in a substantial award of costs. Taking into account the significant risk of costs and the advice of the barrister, the Chair of the Planning Committee agreed that the remaining reasons should not be pursued.
- 4.25 At the opening of the inquiry the Council's barrister advised that the Council was withdrawing the remaining reasons for refusal, having firstly secured agreement over highway mitigation works with the appellant.
- 4.26 The appeal was concluded on 27 February 2013, following hearing of representations from two local residents, discussions on conditions and the legal agreement and a site visit by the Inspector. The appellant did not make an application for an award of costs.
- 4.27 The appeal decision was issued on 3 July 2013. The appeal was allowed. The Inspector's report was also published and the inspector also recommended approval of the application. The decision was subject to over 70 conditions and a legal agreement which secured £560,000 for public transport and pedestrian improvements, 113 affordable homes, over £200,000 for health provision, over £200,000 for employment and training, £2.3m for education provision and sums for sports play and air quality monitoring, in addition to the extension of the Rising Sun Country Park and £500,000 towards its future maintenance.

Lessons Learned and Action Taken

- 4.28 The Sub-group was advised that, following the appeal, the Council's Engineering Client and representatives from Capita Symonds had met to identify what went wrong with the transport modelling exercise and to agree an action plan of preventative measures to reduce the risk of similar errors occurring in the future.
- 4.29 It was acknowledged that the network in this area, and in particular the Holystone junction, is difficult to model due to fluctuations in traffic flows.
- 4.30 It was agreed that a more structured audit and checking process would have minimised the risk of the modelling issues occurring. In view of this, a new process has now been developed and implemented. This includes:

- A process map to ensure that all information and data can be independently checked and validated at various stages throughout the modelling process;
- A requirement for sign-off from a senior technical officer at each key stage.

- 4.31 The Sub-group was informed that the new system will considerably reduce the risk of a similar error occurring when examining future major planning applications.
- 4.32 In addition, the Sub-group had an opportunity to view a demonstration of the new transport model that is under development to show traffic flows along the A191 corridor through the borough from the Holystone roundabout to Four Lane Ends.
- 4.33 The Sub-group was informed that the model had been developed based on the highway network and trip matrix information gained from travel surveys carried out during neutral months. The model incorporates all committed developments that will impact on this part of the network. The next stage of development will be to input the potential Local Plan residential and employment sites in order to show the potential impact. This could also include sites identified by Northumberland Council and Newcastle City Council that are close to the North Tyneside border and could be expected to have an impact on the highway network in North Tyneside.
- 4.34 The sub-group suggested that the model could be of use to developers, and it was noted that consideration was being given to making the model available to developers on a fee basis during the planning application process, with the aim of reducing lengthy negotiations in relation to traffic mitigation measures.
- 4.35 The sub-group acknowledged the action taken to address the issues that had arisen in relation to this case and made the following recommendations:

Recommendations:

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;
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;
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.

Evidence from interested parties

1. Ward Councillors

- 4.36 The sub-group invited ward councillors from the wards affected by the planning application to a meeting to share their views on their experiences of the process.
- 4.37 Cllr Spillard attended the meeting in her capacity as Ward Member for Battle Hill. Other ward members were unable to attend the meeting in person but did submit written comments to the sub-group.
- 4.38 The ward councillors acknowledged that mistakes happen and that actions have been taken to address the issues that arose in this case. However, they wished to highlight concern that the issue in relation to the traffic modelling had only been picked up at a very late stage and it had been very difficult for the ward councillors who were in attendance at the appeal to explain this to residents. Ward Councillors had been placed in a very difficult position at the appeal hearing.
- 4.39 The Sub-group acknowledged the views of ward councillors and agreed that they would like an opportunity to speak directly to representatives of the residents to hear their views and to stress that the Sub-group was looking into the issues thoroughly.

2. Meeting with Representatives of the Residents Campaign Group

- 4.40 The sub-group noted that the Holystone Action Group had played an active role in campaigning against the planning application on behalf of the residents of Holystone and that representatives of the group had been present at the appeal hearing. The Sub-group invited two members of the Holystone Action Group, Mr Keith Page and Mrs Vivien Fenn Webber, to a meeting in order to hear directly from the representatives about the experiences of the process. In addition, the Group held a further meeting with Mr Mark Tovey and Mr Keith Page of the Holystone Action Group to discuss the developing transport model for the A191 corridor.
- 4.41 Mr Page provided a written note of issues he wished to raise with members and there was an opportunity to discuss the points set out in the note. In particular, Mr Page stressed that the Campaign Group felt they had been unfairly treated by both officers and politicians, and had been attacked in political leaflets and accused of acting in a political capacity, which they disputed.
- 4.42 The conversation also covered wider issues in relation to the Council's approach to consultation on the original Core Strategy proposals which identified potential sites for residential development in the Borough. Mr Page highlighted the dissatisfaction of the campaign group with the consultation process and the difficulties they encountered in relation to the consultation. In particular, the Group did not feel that the Council had communicated effectively with the public during the initial consultations on the Core Strategy, had not followed proper processes and had not acted fairly in its approach.
- 4.43 Members of the Sub-group acknowledged the views put forward by representatives in relation to both their experiences of the Council's consultation processes in relation to the Core Strategy and in relation to the Scaffold Hill planning application. Members were of the view that lessons should be learnt from this experience and that transparent processes should be put in place to allow residents to have their say.

Recommendations:

4. That Cabinet review the Council's consultation policy, particularly in relation to planning matters, and ensure that processes are transparent and that wider consultation is undertaken to include children & young people in addition to residents to have real input into the process and to observe that their contributions are being respected.

5. Background Information

- 5.1 The background papers and research reports listed in Appendix A have been used in the compilation of this report and copies of these documents are available from the contact officer.

6. Acknowledgements

- 6.1 The working group would like to place on record its thanks and appreciation to those Council officers, ward councillors and representatives from the Holystone Action Group for their assistance providing evidence to the Sub-group.
- 6.2 A full list of all those individuals who helped the Sub-group with its work is set out in Appendix B.

List of Background Papers

The following background papers have been used in the compilation of this report and copies of these documents are available from Joanne Holmes, Democratic Services, e-mail joanne.holmes@northtyneside.gov.uk Tel 643 5315

- Scaffold Hill – Briefing Note – introductory presentation
- Briefing note – checking procedures for traffic modelling
- Note to Sub-group from the Holystone Action Group
- Electronic Version of A191 traffic model
- Local Plan Sub-group – notes of meetings

Acknowledgements

The working group would like to place on record its thanks and appreciation to the following individuals for their assistance to the working group:-

North Tyneside Council

Jackie Palmer – Planning Manager, Capita
Andrew Flynn – Integrated Transport Manager
Andrew Green – Capita
Nicholas Bryan - Capita
Joanne Holmes – Scrutiny Advisor

Councillor Lesley Spillard
Councillor Alison Waggott-Fairley
Councillor Gary Bell

Resident Representatives:

Mr Keith Page
Mrs Vivien Fenn Webber
Mr Mark Tovey

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

1.16 Purpose:

1.16.1 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.

1.16.2 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.

1.17 Recommendation(s):

1.17.1 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.

1.18 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.

1.19 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.

1.20 Information

1.20.1 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.

1.20.2 Response to Recommendations

Recommendations	Responses
<p>(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.</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"> • A process map to ensure that all information and data can be independently checked and validated at various stages throughout the modelling process; and • A requirement for sign-off from a senior technical officer at each key stage. <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>(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;</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>(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.</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 31st March 2015. These fees will include an element to offset the costs of maintaining the transport model.</p>
<p>(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.</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>(5) That the above recommendations are implemented within the next 6 months.</p>	<p>The actions described above will be implemented within the next six months.</p>

1.21 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.

1.22 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.

1.23 Appendices:

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

1.24 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

1.25 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.