

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on 2 August 2018.

PRESENT: Councillors M Storey (Chair), D Coupe, S Dean (As Substitute), T Higgins, L McGloin, M Saunders and J A Walker and M Walters (As Substitute).

PRESENT AS OBSERVERS: Mr J Cain (Press).

PRESENT BY INVITATION: Councillors J Rathmell and L Young.

ALSO IN ATTENDANCE: Mr A Walker (Call-In Witness).

OFFICERS: S Bonner, S Dorchell and R Farnham.

APOLOGIES FOR ABSENCE Councillors E Dryden, A Hellaoui, L Lewis, T Mawston, J McGee, P Purvis and J Sharrocks.

DECLARATIONS OF INTERESTS

None were recorded.

1 CALL IN - A172 DIXONS BANK/ STAINTON WAY HIGHWAY IMPROVEMENT SCHEME

The Chair welcomed everyone to the meeting and introductions were made.

The Chair made a statement informing members of the public the meeting was being recorded and to remind them of appropriate behaviour during the meeting.

The Chair provided an outline of how the Call In would proceed; the Councillor proposing the Call In (Cllr Jon Rathmell) would be afforded 15 minutes to do so and this would include any statements from witnesses. At the end of the 15 minute presentation the Executive Member for Economic Development and Infrastructure would have the opportunity to question the proposing Councillor for five minutes, this could include input from officers from the relevant service area.

The Executive Member/ service area would then have 15 minutes to provide the reasons for the decision after which the proposing Councillor would have the opportunity to question the Executive Member/ service area for five minutes.

The Overview and Scrutiny Board (OSB) would then be given the opportunity to ask the proposing Councillor and Executive Member/ service area questions. After this the proposer and the Executive Member would be given five minutes each to sum up. OSB would then vote on whether or not the decision should be sent back to the Executive.

The Chair confirmed that the subject of the Call In was the decision made by the Executive on the 10th July 2018.

At this point in the meeting the Chair invited Cllr Rathmell to present the case to OSB. Cllr Rathmell requested that his witness be called to participate in this part of the meeting and respond to questions. The witness introduced himself to the meeting stating that he was a local resident. Cllr Rathmell and the witnesses made the following comments as part of their presentation:

- The Call In was for a number of reasons, primarily for the lack of valued consultation.
- The rationale and reasoning behind the improvement scheme was flawed as the traffic problems were present previously. This problem was well evidenced in the media and confirmed by the Mayor that the Marton Crawl did not exist.

- Throughout the consultation process the goal posts had always been moved.
- While public consultation was not a statutory requirement, it was good practice when making decisions.
- Any consultation should have been a two-way street so residents could submit questions, and within the consultation period, it was reasonable to anticipate their answers.
- One of the significant points in the Executive report was the omission of some responses and concerns and issues raised by residents.
- There was an additional 87 consultation responses, submitted following a public meeting, which had not been included in the data and there was no reason given as to why.
- With regards to the consultation process; a complaint was submitted concerning how the consultation was insufficient and questions were not being answered. The Planning and Delivery Manager responded stating, 'from your complaint I understand you are dissatisfied with lack of formal responses to your letters regarding the above proposed scheme. The Council has now begun consultation on the proposed scheme and the letters dated the 18th and 20th December 2017 from Mr Farnham informed of the wider consultation exercise at the request of residents in the wider area along with an extended deadline. The exercise would conclude on the 18th March 2018.'
- The most important part of the Planning and Delivery Manager's response was, 'in relation to you not receiving your responses, the aforementioned extension of the process will enable the Council to collate all information, fully review and provide responses to issues and queries raised in a coordinated manner for consultees.'
- However, none of the questions raised were answered and none were included in the report.
- It was unreasonable to consider the Executive were in possession of the all the relevant information considering not all of the responses had been included in the report.
- This ignored the concerns raised by residents.
- It was also bizarre that there was a presentation of only one proposal and when alternatives were proposed they were not considered or were ignored.
- There were alternative minor adjustments that could be made to the junction in a staged improvement plan and not opposed to changes to the junction.
- Despite a consultation process the Executive Member for Economic Development and Infrastructure stated at a public meeting that the decision was his and he would sign off on it. The proposal was always presented as a decision that was already made.

The witness was asked about the consultation that he had been part of and if he felt the Council had given real thought to it, rather than following a bureaucratic process. The witness made the following comments as part of his response:

- A number of questions were raised by residents in different formats and no responses had been received.
- There were two outstanding Freedom of Information requests that were overdue and were undergoing a review.
- Because of the volume of traffic diverted down Dixon's Bank a report carried out regarding noise and air pollution had been requested. However, this report was not being released.
- The Council could have done more to engage with affected residents.
- Residents were confused how £1.7m could be spent by the Council on the scheme despite the commissioned report by Arup not supporting it.
- If the scheme was unsuccessful traffic would be directed through Coulby Newham, Hemlington and Stainton which could create a Coulby Newham crawl given the length of time the scheme would take to complete.
- Residents did not feel the consultation had been fair and resident's views had not been considered.
- There was no technical merit to the scheme, it would not solve the Marton Crawl and was a waste of public funds.

Councillor Rathmell thanked the witness and continued with his presentation making the following comments:

- The Executive Member for Economic Development and Infrastructure was asked about the significance of the 25,000 vehicle passes quoted in the report. This number had not changed since the previous traffic modelling exercise despite the large number of developments in Nunthorpe, Marton and Coulby Newham.
- When the Executive was making its decision there was no information on air quality and pollution. Middlesbrough as an Authority was notoriously bad for air pollution which was widely reported in the local media the previous year. Despite this, the scheme would introduce more vehicles in close proximity to properties impacting on resident's health. This should have been considered as part of the Executive report.
- A joint report between Middlesbrough and Redcar and Cleveland Councils was expected at the end of July 2018 but the Executive made their decision before it was released.
- While the Mayor stated he had received assurances he could not know the scheme would be successful without the final report, which was subject to change.
- The Council was failing the residents of Nunthorpe, Marton and Coulby Newham. The scheme would not solve the problem, and minor amendments would be preferable such as an intelligent traffic light system.
- Residents were asking for a considered approach that took their views into account as this scheme did not do that. The various omissions from the report did not enable the Executive to make an effective decision.

At this point in the meeting the Chair invited the Executive Member for Economic Development and Infrastructure to pose questions to Cllr Rathmell.

The Executive Member for Economic Development and Infrastructure asked, in relation to the alleged missing 87 consultation responses, if Cllr Rathmell had brought this to the attention of either himself or an officer. Cllr Rathmell responded this had been brought to the attention of the Principal Engineer for Traffic Management via email. Cllr Rathmell also stated all correspondence was submitted via the communications plan he was subject to and any misplaced documents was the concern of the Council.

The Executive Member for Economic Development and Infrastructure asked why this issue had not been raised by Cllr Rathmell at the meeting of March 6 2018 held at Chandlers Ridge School. Cllr Rathmell responded that he dipped in and out of the meeting in order to speak to late arriving attendees and those leaving the meeting. As such Cllr Rathmell stated he was not present to hear all of the information presented at the meeting.

The Executive Member for Economic Development and Infrastructure asked why Cllr Rathmell asserted the Arup report did not support the scheme yet the addendum to the report stated because congestion was so high the scheme should be implemented by the first forecast year of 2020. Cllr Rathmell responded that the Council had cherry picked parts of the Arup report to satisfy its own agenda. Cllr Rathmell stated that the scheme was a sticking plaster solution that would not solve the problem therefore all information should be included so the Executive could make an informed decision.

At this point in the meeting the Chair invited the Executive Member for Economic Development and Infrastructure to present the case for the Executive. The following comments were made during the presentation:

- In 2009 Arup was jointly commissioned by Middlesbrough and Redcar and Cleveland Councils to investigate options about the east Middlesbrough transport corridor.
- A number of measures were suggested in the report, including the construction of a by-pass, the introduction of a park and ride facility and improvement to public transport services.
- Middlesbrough Council agreed to all three proposals in principal, whereas Redcar and Cleveland agreed with the last two, namely not the construction of the east Middlesbrough by-pass.
- Houses were later built on Swan's Corner which removed the option of a by-pass by default.
- The proposed park and ride facility was based within Redcar and Cleveland Council's

- remit and as such had to be progressed by them. Redcar and Cleveland Council were still unwilling to progress that proposal.
- As a result Middlesbrough Council focussed on its own local transport network and carried out a number of improvements to the bus network on Marton Road, Acklam Road and Cargo Fleet Lane.
 - A two phase traffic modelling exercise was carried out, the first phase in 2013, which informed the 2014 Local Plan, and the second phase in 2015/2016.
 - From this modelling exercise the A172/ Dixons Bank was identified for improvement to be implemented by 2020.
 - The section of highway between the A172 and Stainton Way, leading onto the A174 Parkway carried about 25,000 vehicles per day. The Arup report stated this was at capacity.
 - The proposal was to increase capacity on Stainton Way for drivers wanting to take an alternative route.
 - The consultation process was carried out in two stages. While not a statutory requirement the Council felt it should undertake consultation as the proposal affected residents.
 - The first phase of consultation began on 15 September 2017 in which seven properties with direct access to Dixons Bank were consulted. The Ward Councillors for Marton East, Marton West and Nunthorpe received letters either via e-mail or the Council's Courier service.
 - Nunthorpe Parish Council was consulted in September 2017 as were key transport stakeholders, such as the emergency services and bus services.
 - The Principal Engineer for Traffic Management attended three community Council meetings: Marton West on 7 November, Marton East on 14 November and Nunthorpe on 28 November 2017.
 - The Mayor, the Executive Member for Economic Development and Infrastructure and the Principal Engineer for Traffic Management attended a meeting of Nunthorpe Parish Council in November 2017 who discussed the plans and the consultation process. It was agreed to expand the consultation until March 2018.
 - The number of formal consultees was expanded to include a further 82 consultees. The previous seven consultees were provided further opportunity to add comments.
 - A dedicated website was created for the proposals that included downloadable plans and links to the Arup reports. The Mayor, the Executive Member for Economic Development and Infrastructure and the Principal Engineer for Traffic Management attended a public meeting organised by Nunthorpe Parish Council on 6 March 2018.
 - Overall, the consultation lasted six months. For context, the Local Plan consultation lasted six weeks.
 - There were 87 responses overall, with the majority being objections.
 - Less than 50% of the formal consultee responded, the remaining consultations came from further away.
 - The Council was asked to examine environmental factors of the scheme which was undertaken by Arup. This report would be made public when finalised. The report made suggestions the Council was already undertaking, including sound reduction surfacing.
 - It was a suggested implementation of the scheme wait for a Joint Strategic Transport Needs Assessment. However the Council felt this was a red herring as the work proposed concerned Middlesbrough's local transport network. A Joint Strategic Transport Needs Assessment would be a very strategic document that looked at both Middlesbrough and Redcar and Cleveland areas including the South Tees Development Corporation area. It was designed to complement work being done on a local level.
 - Following the close of consultation the proposal was brought to Executive in July 2018.

At this point in the meeting the Chair invited Cllr Rathmell to pose questions to the Executive Member for Economic Development and Infrastructure.

Cllr Rathmell queried if the Executive Member for Economic Development and Infrastructure maintained that Nunthorpe Parish Council was contacted in September. Cllr Rathmell had correspondence contradicting this and he, and the Community Council, had been omitted from

the consultation in error. The Principal Engineer for Traffic Management stated the omission of Nunthorpe Parish Council was an oversight on his part, which was not intentional and rectified the situation as soon as he was made aware of it. The Principal Engineer for Traffic Management stated that despite Cllr Rathmell's communications plan he wrote to him on 15 September 2017.

Cllr Rathmell clarified that Nunthorpe Parish Council did not receive the full six month consultation period as previously stated. The Principal Engineer for Traffic Management explained that while Nunthorpe Parish Council did not receive the six month consultation period they did have approximately five months to respond to the consultation.

Cllr Rathmell stated that there were a number of other issues including the broken web-links on the dedicated webpage and queried if the Principal Engineer for Traffic Management had received notification of this problem. The Principal Engineer for Traffic Management responded that he was made aware of the issue and rectified the situation immediately after being told. He also stated that the dedicated web-page was active for the full three months of the extended consultation period.

Cllr Rathmell queried if the service area still maintained the consultation period was open for six months in light of the comments made about the broken webpages. The Principal Engineer for Traffic Management stated that for a scheme of this nature a three month consultation period, which is what the extended consultation period covered, was a reasonable amount of time for residents to submit responses.

The Executive Member for Economic Development and Infrastructure stated that the overall consultation period lasted for six months.

Cllr Rathmell queried why the Executive Member for Economic Development and Infrastructure had described the Joint Strategic Transport Needs Assessment as a red herring given the number of vehicles using a geographic area covering both Boroughs. The Executive Member for Economic Development and Infrastructure reiterated that the Joint Strategic Transport Needs Assessment was designed to complement existing work and not to suggest new work to local transport networks.

At this point in the meeting the Chair invited OSB to ask questions of both Cllr Rathmell and the Executive Member for Economic Development and Infrastructure.

Cllr Saunders queried the plans and how the road widening would work. Having been a professional driver for 35 years and having used the A172/ Dixons Bank on a daily basis he did not see how the scheme would improve the situation. It was confirmed the widening scheme would take place on the north side of the carriage way between St. Cuthberts Avenue and just before the junction on Stainton Way. The Principal Engineer for Traffic Management stated the scheme was intended to increase opportunities for traffic to reach the junction at Stainton Way. It was pointed out the approaches to the junction were at capacity rather than the junction itself. It was also clarified the scheme on Stainton Way heading to Coulby Newham was designed to assist with peak traffic flow in the morning, while the scheme to Dixons Bank heading south was being implemented to assist with the evening traffic peak.

Cllr Saunders queried if the service area was aware that a lot of traffic turning right onto Stainton Way usually headed to destinations in East Middlesbrough rather than the Town Centre and could not see how traffic travelling past Marton shops could be alleviated.

The Chair reminded OSB that the remit of the Call In concerned the lack of consultation and information provided to the Executive. The details of the proposal were not for OSB to consider.

Cllr Saunders stated he remained concerned at the amount of money that was estimated to be spent on the scheme.

Cllr Walker sought clarification around the 87 omitted consultation responses, as the Executive report cited 87 as having been received as part of the consultation exercise. It was

clarified that an alleged 87 additional responses to those received were not included in the information provided to the Executive.

Cllr Walker asked the Principal Engineer for Traffic Management how quickly the broken webpage was repaired after being notified of the fault. It was confirmed the issue was resolved the same day. Cllr Walker asked if this delay was accounted for the consultation timeline. It was confirmed the webpages were available for the extended three month period of the consultation.

Cllr Saunders queried what impact the improvement scheme would have on the number of trees along the highway.

The Chair reminded OSB that questions needed to be framed within the remit of the Call In, namely the consultation process and the lack of information provided to the Executive.

Cllr Walters queried if consultation had been carried out regarding environmental factors. She pointed out the Executive report, at paragraphs 36 and 37, stated work was carried out by Arup and no revisions to the plan were required. The Executive Member for Economic Development and Infrastructure confirmed that as part of the consultation exercise environmental questions were asked and the Arup report was commissioned as a result. The findings of the report showed the Council was already looking to install the recommendations made by Arup.

Cllr Coupe queried if the 25,000 vehicles cited as passing the junction was the maximum number of vehicles that could pass through that area or if this number had increased due to increased house building. The Principal Engineer for Traffic Management responded stating there had not been a substantial increase in traffic volume since 2008 for two reasons; the first was that the road was operating at capacity and the second was the economic downturn which resulted in a reduction of traffic flow for a period of time. This had only started to increase in the past two or three years.

Cllr Walker commented that the Executive report spoke to what impact the improvements would have on local trees.

The Chair reminded OSB that questions needed to be framed within the remit of the Call In; that was the consultation process and the lack of information provided to the Executive.

Cllr McGloin queried if it was felt traffic flow would increase in the coming months. The Principal Engineer for Traffic Management commented that due to continued housing developments in the town it was likely that traffic volume would increase and that was the reason the improvement scheme was being proposed.

Cllr Higgins queried if the consultation was over a period of six months. It was confirmed that the overall consultation was over a period of six months.

The Chair sought, and received, clarification on the following points:

- A consultation process was undertaken.
- The consultation process was extended.
- There was no statutory requirement to carry out the consultation.
- The consultation carried out was longer than would be expected for a scheme of this kind.
- That a Joint Strategic Transport Needs Assessment would not be carried out due to the nature of the development, namely its size.

At this point in the meeting the Chair invited The Executive Member for Economic Development and Infrastructure to sum up. The following points were made:

- The scheme had a number of studies feeding into it, beginning in 2008.
- The Arup report commissioned by the Council did support the proposed scheme.
- The Council undertook a lengthy consultation period, despite it not having a legislative

- requirement to do so.
- While there was some issues with the consultation process, namely the technical issues with the dedicated webpage, residents and other stakeholders did get an opportunity to respond, including those who were not formal consultees.
- The Council felt the consultation process was full and proper.

At this point in the meeting the Chair invited Cllr Rathmell to sum up. The following points were made:

- While the consultation was not statutory, this did not mean those affected had to be grateful to the Council for carrying out the consultation.
- While the consultation was extended the Council's policy and guidance stated if consultation was to be held over a holiday, such as Christmas, it was best practice to extend. Consequently, this did not make the consultation special.
- While the Executive were told there was six clear months of consultation there was, in fact, only 3 clear months of consultation due to the broken webpage.
- The Executive should have received the report into the environmental factors before making a decision into the scheme.
- Much of the scheme concerned the area from Marton Shops to the A174, however it would have been beneficial for the scheme to relate to the area around the junction.
- The overall period for consultation was not satisfactory and there were omissions from the Executive report, including the Environmental impact report.
- If the Arup report concurred with the Council's assessment it should have been considered by the Executive.
- Due to these factors the Executive did not receive all of the information they should have.

At this point in the meeting the Chair invited OSB to vote on sending the decision back to the Executive.

ORDERED: After considering all of the information presented at the meeting, the decision of the Overview and Scrutiny Board was not to refer the decision back to the Executive.