

TRAFFORD COUNCIL

Report to: Executive
Date: 25th July 2022
Report for: Decision
Report of: Executive Member for Economy and Regeneration

Report Title

Scrutiny Committee – Task and Finish Group: Review of Disability Access within Trafford – Response to Interim Report

Summary

The Scrutiny Committee has considered the issue of how disability access can be improved within Trafford. A Task and Finish Group was established and reported its interim findings in March 2020 – emphasising areas for priority attention (see Appendix 1). With the advent of the pandemic the matter was placed on hold - This report now sets out a proposed response to the recommendations of the Scrutiny Committee

Recommendation(s)

It is recommended that that the Executive:

- (i) Notes the recommendations of the Scrutiny Committee Task & Finish Group**
- (ii) That in response to the recommendations of the Task & Finish Group, directs the Corporate Director, Place to:**
 - a. Ensure the Planning service makes the most of opportunities to improve accessibility within planning applications for new developments – via staff training, early discussion with developers and proactive consideration by Highway Officers to ensure the provision of an accessible environment.**
 - b. Ensure that the Trafford Design Guide & Design Code fully reflects accessibility principles**
 - c. Retain a policy on Adaptable & Accessible Housing within the Local Plan when it is presented to the Executive to approve its final formal consultation.**

Contact person for access to background papers and further information:

Adrian Fisher Director of Growth & Regulatory Services – Adrian.fisher@trafford.gov.uk

Background Papers: None.

Implications:

<p>Relationship to Policy Framework/Corporate Priorities</p>	<p>Better accessibility supports all three corporate priorities – most obviously that of reducing health inequalities. However accessible environments also ensure that all people can fairly access the employment & facilities they need. If we promote places that promote independent movement for all people we can also drive down dependency on vehicular transport</p>
<p>Relationship to GM Policy or Strategy Framework</p>	<p>These issues align closely with the aims of the TFGM streets for all strategy.</p>
<p>Financial</p>	<p>The preparation of development plan policies and the negotiations of planning applications have implications for staff time. In March 2022 the Council received a grant of £160,000 to facilitate its role as a Design Code Pathfinder, which will assist with ensuring accessibility is factored into the Design Guide.</p>
<p>Legal Implications:</p>	<p>The Public Sector Equality Duty is a duty imposed on all UK public bodies by section 149 of the Equality Act 2010, to take equalities considerations into account when exercising any of their functions and taking decisions</p> <p>The duty imposed by section 149(1) of the Equality Act 2010 on public authorities is one requiring them, in the exercise of their functions, to have due regard to the need to:</p> <ul style="list-style-type: none"> • eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the act; • advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and • foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>The relevant protected characteristics that section 149 of the Equality Act covers are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p>
<p>Equality/Diversity Implications</p>	<p>As set out above Section 149 of the Equality Act provides that public authorities, when exercising their functions, must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons with protected characteristics and those that do not share them. Disability is one of the</p>

	protected characteristics referred to in the Act.
Sustainability Implications	Accessibility supports the 'social' strand of sustainable development
Carbon Reduction	None directly arising
Resource Implications e.g. Staffing / ICT / Assets	Minor implications in terms of staff resources devoted to planning policy and planning applications.
Risk Management Implications	None directly arising
Health & Wellbeing Implications	Better accessibility supports improvements in Health & well being for people with disabilities
Health and Safety Implications	None directly arising.

1.0 Background

- 1.1 The Scrutiny Committee on 11 March 2020 considered the Interim Report of the Disability Task and Finish Group. The advent of the pandemic and the initial lockdown almost immediately afterwards delayed further consideration of these matters by the Executive. This report now formally responds to those recommendations and reflects work that has taken place over the intervening months.

2.0 Matters Raised and Response

Task the Planning Team to lead on working with the Governance Team to explore how to optimise the application of PSED concerning Disability Access when granting Planning Permission for new and refurbished, non-private dwelling, developments. To answer the question: How can we make Disabled Accessibility a condition of every Planning application, other than private dwellings, which we grant?

- 2.1 In addressing accessibility it is important to distinguish between the role of Building Regulations and planning. As the Task & Finish Group highlight, to be fully effective, the Council needs to ensure the two systems work properly in tandem. However they are two separate legislative regimes – with (broadly) Building Regulations governing the interior and immediate means of access to buildings and their construction – and the Planning system, the exterior & environs. Relevant legislation and Guidance governs how the Council can respond to the recommendations
- 2.2 The process of determining planning applications can do much to ensure that accessibility is addressed within new developments. This particularly relates to ensuring there is sufficient disabled parking in line with published standards and that the environment around buildings is suitable and accessible. Where appropriate, improvements to the adjacent highway (footpaths/crossings etc) can be secured. Planning decisions also need to consider the implications on protected groups if, for example, their home is to be demolished as part of the proposals, even if they are to be moved into the new scheme. Past High Court cases underline the importance of upholding the Public Sector Equality Duty within planning decisions.
- 2.3 Consequently there is much that can be done by applying the PSED within the Council's planning functions. It is widely acknowledged that relatively modest

measures can deliver significant improvements to accessibility – and where these are planned at the outset, their cost is almost negligible. Conversely, once a plan is decided on and implemented, it can be virtually impossible to retrofit those self-same measures. Accordingly there is significant benefit in securing improvements early on in the planning of new developments – and in ensuring disability access is central and integral to the delivery of Trafford Planning functions.

2.4 There are a number of ways in which this can be achieved:

- Training for planning officers – reminding them as to the benefits of more accessible developments, a refresh of relevant case law as it relates to accessibility and equalities and the need to consider accessibility at an early stage in applications. A practice note is being put together in conjunction with Legal to ensure that the PSED can be discharged where equality issues arise in planning applications.
- An integrated approach to Planning and Highways. The Council is both planning and highway authority – and appropriate off-site measures on the local road network need to be considered
- Training for Councillors – to ensure issues are well understood – and also the extent and limitations to the Council’s powers.

2.5 It is anticipated that if such issues are highlighted at an early stage, most responsible developers will respond positively – and this will secure appropriate improvements in the vast majority of cases. Consideration will be given as to how any voluntary improvements in accessibility are presented within planning committee reports – developers cannot be penalised for only doing what is required of them – but equally members will be keen to learn if improvements have been negotiated. The Planning Team will work with legal officers to see how best this issue can be covered within reports. Residential development is currently considered on the ‘tilted balance’ – which (in simple terms) favours the grant of consent on housing schemes. Accordingly the Council needs to be mindful that the optimum improvements may not be possible in every single case.

2.6 Accessibility can be addressed via ensuring the submitted plans include the provision of an accessible environment in and around developments – and such plans can be amended during the planning application process. Appropriate conditions and or planning obligations may secure further improvements or require that further details be submitted and approved. It should be noted that the planning system cannot alter the Building Regulations (except in the specific circumstances set out in paragraphs 2.11 & 2.12) – and the Council has no discretion over the Building Regulations which are set nationally.

2.7 It is also important to stress that significant permitted development rights now exist in relation to the creation of new dwellings – especially regarding office conversions. The intention is to de-regulate this activity so as to facilitate the supply of new homes. As a consequence the Council’s power to shape the development is more limited and the attendant prior approval process does not provide the same level of control. This restricts and in many cases removes our ability to apply development plan policy and guidance requiring disability access improvements.

Task the Planning Team to ensure that the new Trafford Design Guide is robust in its inclusion of Accessible Design Principals –we need to go beyond building regulations.

- 2.8 At the outset it is important to stress that the means by which higher standards of accessibility can be achieved within buildings is via the Building Regulations. Going “beyond” the building regulations is not an option in terms of the Council’s regulatory powers – rather the choice is to adopt optional higher standards within the building regulations themselves. This can be achieved via the Local Plan (see below).
- 2.9 Revisions to the National Planning Policy Framework, the governments over-arching guide to the planning system, encourages better design in new developments and the adoption of design guides and design codes by Local Authorities. The Trafford Design Guide has accessibility and liveability as a recurring theme throughout. The aim is to create living and working environments that are suitable for the whole community. Particular attention will be focussed on highways and landscaping – the public realm and exterior of developments where careful design can make significant improvements to the overall accessibility of a development.
- 2.10 In March 2022 the Council become one of the Governments Design Code ‘Pathfinders’ – with an award of £160,000 to help develop local design principles for the Borough. Work is now underway for local engagement on the draft design guide and design code principles – with consultation planned for 6 weeks from 1 July.
- 2.11 It is hoped that this engagement will help shape and refine the accessibility proposals within the Design Guide, as well as informing the balance between guidance and the formal code. The finalised documents will come before the Executive later this year for final approval.

Task the Planning Team to ensure that the Urban Development Plan, Urban Development Plan and Neighbourhood Plans e.g Active Urmston Plan are robust in their inclusion of Accessible Design Principals –we need to go beyond building regulations

- 2.12 Local planning authorities have the option to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of access as part of their Local Plan. To do this the Council will need to gather evidence to determine whether there is a need for additional standards in our area, and justify setting appropriate policies in our Local Plan
- 2.13 National guidelines set out the kind of information and data which is required to make this case. Where a local planning authority adopts a policy to provide enhanced accessibility or adaptability they should do so only by reference to Requirement M4(2) and/or M4(3) of the optional requirements in the Building Regulations. In other words whilst the Local Plan can choose to adopt higher standards, those standards are already set out in the building regulations – and it will be for the building regulation system and not the planning process to ensure they are adhered to.
- 2.14 The Council recently published a Draft Local Plan for consultation between 4 February 2021 and 18 March 2021. This first formal draft (known as a “Regulation 18” Plan) is the initial stage of devising a local plan – it will need to be followed up by a best and final version (“Regulation 19”) once the over-arching ‘Places for Everyone’ strategic plan is sufficiently advanced.

- 2.15 The 2021 draft plan included Policy HN6 'Adaptable & Accessible Housing' which required that, in line with the Places for Everyone Plan, all new dwellings will be expected to be built to Part M4(2) accessible and adaptable homes standard. It further required that on proposals of 50 or more residential units the Council will expect at least 2% of new dwellings to be built to Part M4(3) wheelchair accessible standards.
- 2.16 As referenced above the Places for everyone plan also includes a strategic policy on this topic - Policy JP-H 3 Type, Size and Design of New Housing. This required that Housing be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations, unless specific site conditions make this impracticable. The Places for everyone plan is currently the subject of Examination – and this in turn will determine the ultimate form of this policy.
- 2.17 Should the Places for Everyone policy proceed, then that will greatly assist the Trafford specific policy which provides more detail on how the standards will be applied locally. The Trafford Local Plan Policy will also need to be subject to its own viability assessment before being finalised.
- 2.18 The Trafford Civic Quarter Area Action Plan is a development plan covering a relatively small area of Old Trafford. This plan is proceeding through formal examination and has now reached the Modifications stage and it is hoped that it will be adopted in the autumn of 2022. The Plan includes a number of policies that support accessible environments which will then apply with full weight within the Civic Quarter Area.

Other Options

The Executive could choose not to explore the issues in more detail.

Consultation

No Consultation required to produce this report. Consultation was undertaken as part of the Places for Everyone Plan and Trafford Local Plan as set out in the report. The Trafford Design Guide will be the subject of consultation in the summer of 2022. All Planning applications are subject to routine consultation.

Reasons for Recommendation

To fully respond to the recommendations of the Scrutiny Committee

Urgency of Decision

Not applicable

APPENDIX 1

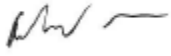
[Disability Task and Finish Group Interim Report 11 March 2020](#)

Key Decision (as defined in the Constitution): No

If Key Decision, has 28-day notice been given? N/A

Finance Officer Clearance - PC
Legal Officer Clearance TR

CORPORATE DIRECTOR'S SIGNATURE

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To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.