

# TONBRIDGE & MALLING BOROUGH COUNCIL

## AREA 3 PLANNING COMMITTEE

16 November 2006

### Report of the Chief Solicitor

#### Part 1- Public

#### Matters for Information

### 1 NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

#### 1.1 Biodiversity duty

1.1.1 Section 40 of the Natural Environment and Rural Communities Act 2006 provides that:

"Every public body must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."

This duty applies from 1 October 2006.

1.1.2 This duty is analogous, for example, to our duty under section 70 the Crime and Disorder Reduction Act, where the Council has a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

1.1.3 In due course, DEFRA will be publishing guidance for use by all public bodies. This will include guidance specifically for local authorities, intended to provide a structured approach to implementing the biodiversity duty, and generic guidance for all public bodies aimed at improving understanding of the concept of biodiversity, the variety of ways in which it can enhance quality of life and what can be done to meet the statutory duty.

1.1.4 In some ways, members of planning committees are already familiar with biodiversity issues because some of the issues have been incorporated in other legislative duties. However, members should be aware that biodiversity issues are likely to feature more prominently in future reports to this committee.

#### 1.2 Legal Implications

1.2.1 The Council have a duty to comply with the "biodiversity duty".

**1.3 Financial and Value for Money Considerations**

1.3.1 None.

**1.4 Risk Assessment**

1.4.1 Not applicable

Background papers:

Natural Environment and Rural Communities Act 2006

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