

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

23 February 2010

Report of the Director of Planning Transport and Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

1 MANAGING DEVELOPMENT AND THE ENVIRONMENT DPD – INSPECTOR’S REPORT

Summary

The Inspector’s Report into the Examination of the Managing Development and the Environment Development Plan Document (MDE DPD) has been received. The Inspector has found the DPD to be sound subject to a few relatively minor changes. The DPD must therefore now be adopted taking on board his recommendations. This is the fourth of the Borough Council’s DPDs in its Local Development Framework (LDF) that have been found to be sound.

1.1 Introduction

- 1.1.1 The Managing Development and the Environment DPD (MDE DPD) was submitted to the Secretary of State on 31 July 2009 as programmed in the approved Local Development Scheme. A Public Hearing into the MDE DPD took place on 25 and 26 November and 1 and 2 December 2009. The Inspector’s Report has now been received and, subject to some relatively minor changes, he has found the MDE DPD to be sound. His recommendations are binding. The MDE DPD should therefore be recommended to Council on 20 April 2010 for adoption, incorporating the changes proposed.
- 1.1.2 Copies of the Report may be viewed at the Council Offices and other deposit points throughout the Borough. It is on the Council’s Website and is available for sale. **It accompanies this agenda as a separately bound document.**
- 1.1.3 The receipt of this report marks the completion of four DPDs (includes the Core Strategy, Development Allocations and the Tonbridge Central Area Action Plan) which together currently comprise the LDF and almost entirely replace the Local Plan. The schedule of Saved Policies will be revised accordingly. As Members will be aware, work on the Character Area Appraisals Supplementary Planning Document is now well underway and I am hopeful that I will be in a position to report the first tranche of Appraisals to your next meeting in May. By its very

nature, the LDF system is intended to be more flexible which will consequently enable review or partial reviews in due course when the need arises.

1.2 The Inspector's Recommendations

- 1.2.1 The Inspector has found the MDE DPD to be sound subject to a number of changes being made. The majority of these changes are of a minor technical nature and were put forward by your officers during the course of the Public Examination in response to representations (see **Appendix 1** to his report). **Appendix 2** to his report sets out those relatively few changes that he considers are necessary to ensure the soundness of the Plan.
- 1.2.2 The only significant policy change is that he has not accepted in Policy CC1 that Code Level 4 of the Code for Sustainable Homes should be mandatory across the whole Borough. He did not believe that sufficient account had been taken of the viability of development with particular regard to the cost of providing affordable housing and other infrastructure. However, he has accepted that it is right that we should still seek to encourage the attainment of Code Level 4 but not require it. This is disappointing, but the Government will itself require through the Building Regulations the achievement of the equivalent of Code Level 4 by 2013. On the positive side, he has fully endorsed the rest of Policy CC1 and all of the other climate change policies, including the application of the requirement for 10% of CO₂ emission savings to be achieved from low or zero carbon technologies for all residential developments.
- 1.2.3 The other important change is that he has not endorsed the specific allocation of the Freehold at Hadlow as a publicly accessible open space. He was not convinced that the proposal was currently deliverable or justified, or indeed necessary, having regard to the general provisions of the Policy which indicate that the Borough Council will support Parish Councils and others who wish to provide publicly accessible open space in areas of deficiency. He stresses that his conclusions would not preclude the provision of publicly accessible open space on the site. He notes that the site may have intrinsic qualities in terms of its amenity and historic value that warrant the retention of its open character but this will be a matter for the Character Area Appraisals SPD. Such matters were not before him. He was only concerned with the possible recreational use of the site.
- 1.2.4 The only other notable change is the deletion of the Regionally Important Geological Site (RIGS) and changes to the boundary of the Local Wildlife Site at Hale Street Quarry in the light of representations from the owners of the quarry. Most other proposed changes are technicalities to ensure absolute consistency with national policy.
- 1.2.5 One of the main issues discussed at the hearing was the suggestion by many respondents that there was a need for a specific policy on Polytunnels. The Inspector accepted our view that such a policy was not necessary since a whole raft of policies would be applied to the consideration of planning applications.

1.2.6 It is particularly pleasing to note that the inspector supported all the other important policies concerning development management that were advanced and this will assist the Council in the subsequent consideration of specific proposals, in dialogue with developers and in dealings with Parish Councils and others.

1.3 Legal Implications

1.3.1 In accordance with Section 23 of the Planning and Compulsory Purchase Act the Council must now resolve to adopt the MDE DPD incorporating the binding recommendations of the Inspector. In accordance with the Regulations, as soon as reasonably practicable after the MDE DPD is adopted, the Council must:

- Publish the Inspector's Report, make it available for inspection, include it on the Website and notify those who have asked to be notified. (it is our normal practice to notify everyone who has commented on the plan).
- The MDE DPD, as adopted, must also be placed on deposit and on the Website together with an Adoption Statement which formally announces the adoption of the plan and indicates that any person aggrieved by that decision may make an application to the High Court to challenge the plan's adoption on a point of law. There is 6 weeks to do this.
- The adopted plan must also be accompanied by a further Statement indicating how the Sustainability Report and public consultation has been taken into account in preparing the DPD and how the environmental effects of the plan will be monitored.

1.4 Financial and Value for Money Considerations

1.4.1 The cost of the Public Examination, including the Inspector's fees, falls upon the Borough Council and will be covered by the LDF Reserve.

1.5 Risk Assessment

1.5.1 None directly arising from this report but clearly the adoption of the MDE DPDs will provide greater clarity to the Council's Planning Policy Framework.

1.6 Recommendation

1.6.1 That Cabinet recommend to Council that it resolves to adopt the Managing Development and the Environment DPD as recommended to be changed by the Inspector under Appendices 1 and 2 to his report.

Background papers:

contact: Brian Gates

Submitted MDE DPD

Examination Statements and other background documents submitted to the Public Examination

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