

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

08 January 2008

Report of the Director of Planning Transport and Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 THE PLANNING BILL AND ALLIED PROPOSED LEGISLATION

Summary

To update the Advisory Board on emerging new primary and secondary legislation arising from the consultation last summer on the Planning White Paper and allied documents.

1.1 The Planning White Paper

1.1.1 Through the first part of this year I reported on the Planning White Paper and allied consultations on which the Council made extensive and detailed comments.

1.1.2 The Government has now published its response to the consultations in the form of various documents as follows:

- The Planning Bill,
- New Permitted Development Rights for domestic micro-generation,
- Changes to Permitted Development Rights for Householder development,
- Changes to the planning appeal process,
- Planning Performance Agreements for Major Applications,
- New Planning fees in England

1.1.3 Members will be familiar with the broad thrust of many of these areas of change but the following is a brief summary of the main points. As ever, Local Planning Authorities are going to be dependant on subsequent guidance to be issued by Government in many of these areas.

1.2 The Planning Bill

1.2.1 This introduces new arrangements for:

- The Determination of Major Infrastructure Projects
- Proposals to establish an Infrastructure Planning Commission
- The publication of new National Policy Statements

1.2.2 The Bill sets out all the main provisions to operate the new system of controls. It also provides for the making of Regulations, by the Secretary of State, to cover all aspects of the submissions, determination of cases the enforcement controls. These Regulations will be published in due course.

1.2.3 Other aspects of the Bill involve:

- The introduction of the Community Infrastructure Levy (CIL)
- Changes to Tree Preservation Order procedures
- The introduction of powers to override easements and other rights
- The introduction of powers to specify the types of application that shall or shall not be delegated to officers and for the Council to make arrangements for Members to consider appeals against decisions so delegated.
- Changes in respect of Local Development Frameworks (LDFs) which will mean that:
 - Supplementary Planning Documents (SPD) will no longer need to be listed in the Local Development Scheme (LDS), which means that the Secretary of State's approval to prepare SPD will no longer be required;
 - A Sustainability Appraisal will no longer be a requirement for SPD;
 - The Statement of Community Involvement (SCI) will no longer have to be included in the LDS and there will no longer be a requirement for an independent examination of SCIs;
 - A new duty to include policies in LDFs which address mitigating and adapting to climate change.

1.2.4 The CIL has been introduced in place of the widely criticised Planning Gain Supplement as proposed in the White Paper. Following that consultation the Government reviewed its position and CIL represents a proposal far closer to the tariff arrangements promoted by this Council. The content of the Bill indicates that the creation of the background detail necessary to implement the Levy is going to be very complex and specific and detailed guidance will be essential.

1.2.5 For all these new statutory provisions Regulations will be made in due course.

1.3 Other changes that will lead to secondary legislation

- 1.3.1 **Domestic micro-generation.** The provisions are essentially as consulted upon in the summer. However it is gratifying to see that there is further work yet to be done to ensure adequate control over noise and vibration which was the issue of most concern to the Council at the time of consultation.
- 1.3.2 **Householder permitted development:** Following consultation there have been slight relaxations in the provisions for loft conversions but far more importantly and beneficially the proposed permitted length of rear extensions has been reduced in every case by 1m. Otherwise the general principles set out in the consultation remain. These provisions are still very complex but should ultimately bring some simplification of permitted development rights. One particular change that has now emerged is that there is now likely to be some element of control over hard surfacing in front gardens and side gardens fronting a road which is also a matter that causes relatively frequent local concern.
- 1.3.3 Most of the trailed changes to the **appeal process** are taken forward. In particular, the Inspectorate will be able to decide whether an appeal is dealt with by written methods or subject to hearing. Most importantly the proposal for local determination of appeals on certain types of delegated decisions remains in the Bill. It seems at present this is designed to be a mandatory requirement so that the type of application subject to delegated and member decision making would be prescribed and that appeals against delegated decisions on specific categories of applications would be for the Council's members to determine rather than the Planning Inspectorate. I have expressed concern about these potential arrangements previously which members have endorsed.
- 1.3.4 The possibility of entering agreements between Councils and applicants, to create a timetable for decision making, will be made available.
- 1.3.5 Increased **planning application fees** are now firmly expected. It is currently anticipated that this will be an average of 25% for all applications apart from householder cases which will increase by 11%. This is referred to briefly in the fees and charges report on this agenda and has been built into the forward estimates as far as we are able without information on the detailed scale of charges.

1.4 Legal Implications, Financial and Value for Money Considerations and Risk Assessment

- 1.4.1 Considerable care should be taken in making decisions on the basis of the Planning Bill. Whilst this represents a statement of clear intent from the Government, Bills are always subject to considerable change during their passage through Parliament.
- 1.4.2 The wider implications can only be assessed when the final version of the substantive legislation is in force.

1.5 Recommendation

- 1.5.1 The report **BE NOTED** and be made available to Members of Parliament for consideration during the passage of the Bill.

The Director of Planning Transport and Leisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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The Planning Bill and associated documents

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