

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**PLANNING and TRANSPORTATION ADVISORY BOARD**

**25 February 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 MANAGING DEVELOPMENT AND THE ENVIRONMENT  
ISSUES AND OPTIONS REPORT**

**Summary**

**This report introduces the Issues and Options Report for the Managing Development and the Environment Development Plan Document (DPD). This is the first statutory stage of public consultation on the preparation of this, the last in the current suite of DPDs to be prepared that together comprise the Local Development Framework (LDF) for Tonbridge and Malling. The report also explains the likely timetabling implications of impending changes to the LDF Regulations.**

**1.1 Introduction**

1.1.1 The Local Development Scheme (LDS) approved by the Secretary of State indicates that the Borough Council will be producing four Development Plan Documents (DPDs). The **Core Strategy** was adopted in September 2007. There is a report elsewhere on this agenda recommending that the **Tonbridge Central Area Action Plan** be adopted by Council on 22 April 2008. I expect the Inspector's Report on the **Development Land Allocations DPD** to be received by the end of February and, if found to be sound, this too will be recommended for adoption by Council on 22 April. The one remaining DPD still to be prepared is the **Managing Development and the Environment DPD** (MDE DPD).

**1.2 Purpose of this Report**

1.2.1 After a lot of background work over the past few months we are now in a position to bring forward for Members' endorsement a draft of the **Issues and Options Report** for the MDE DPD, a copy of which is enclosed with these papers. This is the first formal stage of preparing the DPD. It is an important and informative stage during which we will be consulting on the issues and the options before taking forward the preparation of the DPD itself.

1.2.2 The LDS identifies the broad scope of the MDE DPD as including the following topics:-

- Nature conservation and biodiversity;
- Landscape character including trees and woodlands;
- Water supply and quality;
- Lighting, noise and air quality;
- The historic environment including Listed Buildings, Conservation Areas, Historic Parks and Gardens and archaeology;
- Areas of special character within built-up areas;
- Development in the countryside;
- Development in built-up areas;
- Protection of residential amenity;
- Residential extensions and conversions;
- New proposals for open space provision;
- Standards for open space provision in new development; and
- Protection of existing open spaces.

1.2.3 The title and therefore the purpose of this DPD is critical. In an area where there is existing significant development pressure and growth, there is a need to 'manage' that development so that environmental quality is maintained and enhanced. That is what this DPD will aim to do through setting direction and a policy context aimed at achieving the right balance.

1.2.4 The Issues and Options Report is therefore an important consultation document. For the purposes of consultation the issues have been grouped under the following six themes:

- **Theme 1** - Climate Change
- **Theme 2** - Development in the Countryside
- **Theme 3** – Natural Environment
- **Theme 4** - Local Character
- **Theme 5** - Historic Environment

- **Theme 6 - Open Space**

- 1.2.5 The issues which have been identified for each theme are set out followed by a series of broad options indicating the alternative ways in which the issues could be addressed. These are followed by one or more questions, including in many cases the question “are there any other options?” In most cases the first option is “do nothing” or “business as usual” – ie what would the situation be if there were no greater degree of intervention. This approach is important because the **Sustainability Appraisal** (see below) ideally needs to start with this baseline option. It should be noted that the Open Space theme is closely inter-linked with the **Draft Open Space Strategy** that Members approved at their last meeting and which will be subject to public consultation at roughly the same time as the Issues and Options Report. In this respect, it is an important background document for the DPD.
- 1.2.6 Members are invited to consider the issues, the options and the questions, with a view to ensuring that all of the issues and options have been identified and the right questions have been asked. However, it must be emphasised that now is not the time for Members to be taking a view of those issues and options. That will be for a later report when we have the results of consultation and the Sustainability Appraisal to assist Members on making a judgement about what should be included in the DPD (see below). The main objective for the present is to provoke local views on the most important aspects of development and environmental interest and how they might best be managed. It will be the outcome of this process than can be used to shape the future policy in these matters.

### 1.3 The way forward

- 1.3.1 Subject to Members’ endorsement, the Issues and Options Report will be subject to consultation for at least a 6 week period during March and April with a target deadline for comments early in May. The consultation will be aimed principally at technical consultees like English Nature, the Environment Agency and English Heritage, but also other stakeholders such as Parish Councils and Amenity Groups as well as the general public. Whilst a deadline for comments must be set, this will be an on-going process of engagement until the DPD is finalised.
- 1.3.2 At this fairly technical stage this will be a relatively low key exercise. Whilst there will be a press release and informal public advertisement, and it will, of course, appear prominently on the Council’s Website, the main process will involve dialogue with key stakeholders and technical consultees, in the form of Workshop Seminars and one-to-one meetings as necessary. I would also envisage it being an item for the Parish Partnership Panel on 6 March. We will, as always, make it clear that if any Parish Council or other Group wishes an officer to attend one of their meetings then we would be pleased to do so. Indeed, arrangements have already been made for your officers to attend a meeting of the Tonbridge and Malling Branch of CPRE on 14 March.

- 1.3.3 The LDS indicates that it is the intention to report back to Cabinet in September with a draft **Preferred Options Report** prior to the main stage of public consultation during the autumn. The aim would then be to report a **Draft Plan** for adoption by Council in April 2009 prior to submission to the Secretary of State in May 2009. However, last November I reported on proposed changes to the LDF Regulations which will actually do away with the Preferred Options stage of the process, but as I indicated then, it is doubtful that this will save very much time overall.
- 1.3.4 The actual requirements of the revised arrangements are not yet entirely clear but we understand they are to come into effect as from April this year, which is somewhat earlier than originally expected. This means there will not be a Preferred Options consultation on the MDE DPD. The next stage of consultation will be on a full draft plan. This will have implications for the timetable set out in the approved LDS because whilst I was confident that we would be in a position to prepare a Preferred Options Report by September I very much doubt that it will be possible to prepare the full draft plan by that time.
- 1.3.5 Further consideration will therefore need to be given to the timetable in the light of the new arrangements when they are published, but my initial view is that I would still like to retain the idea of an informal Seminar for all Members probably late in July at which we will be able to discuss the Issues and Options in the light of the results of the consultation exercise and having regard to the findings of the Sustainability Appraisal. This would then be followed, probably in September, with a report to the LDF Steering Panel seeking a formal steer on the content of the DPD. The aim would then be to bring a full draft plan to members before the end of the year with a view to public consultation early in the new year.
- 1.3.6 Under the new arrangements submission to the Secretary of State does not occur until we are satisfied that we have a plan that is robust in the light of the comments received. It is conceivable, therefore, that a second version of the plan may need to be prepared but this depends on the success of the earlier stages of public engagement and on the nature of comments received. Under the circumstances, it is difficult to be sure, but it is possible that we might be able to submit the plan to the Secretary of State in May next year as originally envisaged. If there is to be any time saving under the new arrangements it will come after submission.
- 1.3.7 It is unsatisfactory that changes in process are casting uncertainty over the LDF programme in this way. Indeed it is not at all certain that the draft guidance will be followed through in its current form. We will need to await publication of the final guidance.

## **1.4 Sustainability Appraisal**

- 1.4.1 Under the Planning and Compulsory Purchase Act 2004, Sustainability Appraisal is mandatory for all DPDs. When preparing DPDs, planning authorities must also

conduct Strategic Environmental Assessments (SEA) in accordance with European Directive 2001/42/EC. The SEA process specifically relates to the assessment of potential significant environmental impacts resulting from the DPD. Sustainability Appraisal is an iterative process to be carried out throughout the preparation of the SPD, but an important stage is when issues and options are being considered because it is necessary to demonstrate that alternatives to the “do nothing” option have been considered and their impacts appraised.

- 1.4.2 The options are currently being independently appraised and it is intended that an Interim Sustainability Appraisal will be published alongside the Issues and Options Report so that respondents’ representations can be informed by the Appraisal. Members will also have this same Appraisal available to them later in the year when choices will have to be made about the content and direction of the DPD.

## **1.5 Legal Implications**

- 1.5.1 For the Council to progress this plan it has to be included in an approved LDS. This is the case. Whilst, as mentioned above, the Regulations are in the process of changing, there will still be a requirement under Regulation 25 to carry out consultation on the Issues and Options. Indeed, under the new arrangements this will be an even more important stage because it is the only stage of consultation prior to the publication of the full plan. In this respect, it must be emphasised that this is not a one-off process it is an on-going iterative process that will involve dialogue with stakeholders right up until the publication of the draft plan.

## **1.6 Financial and Value for Money Considerations**

- 1.6.1 The preparation of this plan is allowed for in the Revenue Estimates and some aspects are covered by PDG.

## **1.7 Risk Assessment**

- 1.7.1 There is an acknowledged risk in progressing the plan whilst the Regulations are in a state of flux, but on the other hand the Government has made it very clear that it does not wish to see LDF production disrupted as a result of the changes. There is a risk that without a plan of this type there will be policy areas that will not be adequately covered by higher level planning policies. In this respect the Core Strategy was intentionally prepared with a view to greater detail being included in subsequent DPDs.

## **1.8 Policy Considerations**

- 1.8.1 It is central to this DPD that it will take forward many of the objectives of the Council’s Community Strategy and the Climate Change, Crime and Disorder and Open Space Strategies. It will also be fundamental to discharging the Council’s duty to have regard to biodiversity.

## **1.9 Recommendation**

- 1.9.1 That the Issues and Options Report for the MDE DPD be endorsed as the basis for public consultation under Regulation 25 of the Planning (Local Development) (England) Regulations 2004.

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:

contact: Brian Gates

Local Development Scheme 2007

Draft revisions to PPS12 and the LDF Regulations

Steve Humphrey

Director of Planning Transport and Leisure