

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

28 July 2010

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 EMERGING CHANGES TO THE PLANNING SYSTEM

Summary

This report notes some key changes to the planning system since the election of the new Coalition Government and considers what other changes might be forthcoming based upon ministerial statements and the Conservative Party's Planning Green Paper that was published before the Election.

1.1 Introduction

1.1.1 Members will be aware that there has been considerable activity since the General Election on some key aspects of planning process and policy. I have taken the opportunity to outline the key changes that have occurred and also to mention some other areas that seem likely to feature as part of the new Government's Localism Bill due to be published later this year.

1.1.2 Clearly these changes signal some significant shift in the approach to planning likely to take place over the forthcoming months. In order to keep members best informed we have arranged for a training and awareness session for all Members of the Council to take place on the 8 September 2010 in order that we can share more of the emerging picture at that stage.

1.2 Background

1.2.1 Prior to the General Election the Conservative Party issued a green paper entitled 'Open Source Planning'. From the actual changes that have been made since the election and from what has been said by senior members of the new coalition Government, this document seems likely to be a basis for changes to the planning system to be incorporated in the forthcoming Localism Bill.

1.2.2 The green paper included a wide range of changes and these are summarised in very simple form in **Annex 1**. Members will see that the matters covered range from significant changes at a National and Regional level (for example the proposed abolition of the Infrastructure Planning Commission and the revocation

of Regional Spatial Strategies) down to some quite detailed changes in development control and enforcement powers.

- 1.2.3 It can be seen that the overall approach is one that seeks to devolve responsibilities for strategic planning away from the regional level to local authorities and this 'localism' approach is a strong theme running through many of the proposals. There is also a clear move to deregulate in some areas and simplify in others in order to reduce the burden of the planning system both on local authorities and those who use it.
- 1.2.4 Many of the initiatives will require primary legislation and change to regulations. Some of the propositions will no doubt be subject to change through consultation and there will need to be more detail on how initiatives such as changes to the Use Classes Order, Third Party Rights of Appeal, fast tracked planning applications and other such matters are to be implemented. Nevertheless, it is probably wise to assume that much of the thrust of the green paper is likely to be carried through in one form or another. Members will also recognise other subjects on the list that have been of concern for some time such as greater control over mobile phone masts and more apparent freedom for Councillors in relation to planning applications.
- 1.2.5 More detail on this wide variety of planning related matters may emerge over the summer and into the autumn. At the training and awareness session on the 8 September there will be an opportunity for Members and officers to review the picture as it is then and discuss the local implications. It is likely that aspects of the new planning system will be rolled out over the next couple of years so this will be somewhat of an iterative process bearing in mind the range of the review.

1.3 Development Planning

- 1.3.1 One of the most fundamental changes that has been made is the revocation of regional spatial strategies which took effect from the 6 July 2010. For this area the regional spatial strategy was the South East Plan which included region-wide policies and development targets that needed to be taken into account by local planning authorities in preparing their Local Development Frameworks.
- 1.3.2 The abolition of regional strategies is a fundamental shift away from top down regional targets in favour of more local decision making on development provisions. I have included at **Annex 2** some current guidance for local planning authorities published by the Department of Communities and Local Government. This is interesting in confirming that new ways for local authorities to address strategic planning and infrastructure issues will be introduced by Government. It sets out how local authorities should advance their planning work in the meantime and Members will immediately notice that it will be for local planning authorities to establish the right level of local housing provision in their area and identify a long term supply of housing land having regard to such things as the Strategic Market Housing Assessment. Members should also note that there will still be a

requirement to maintain a 5-year housing supply, presumably judged against such local assessment of housing need and demand.

- 1.3.3 It is not clear what further guidance or changes to the planning system the Government will introduce in this respect, but it is likely to be much less prescriptive than we have experienced in the previous regime. It is most likely that local authorities will need to move forward with their Local Development Framework Core Strategies and other documents to identify both the capacity and need for development in local areas and the requirement for essential infrastructure. It is also clear that this will need to be done in close partnership with local communities but still supported by a robust evidence base.
- 1.3.4 For the time being the Borough Council is in a good position. Happily we have a full suite of adopted Local Development Framework (LDF) documents and those have been predicated far more on local needs and assessments rather than a reflection of regional development targets. Indeed, primarily because of the Council's long tradition of forward planning, we have been able to identify some key strategic sites to ensure a confident stream of development in appropriate locations to meet the identified needs of the Borough. There is, therefore, no immediate need for the Council to undertake a review of its LDF documents although we will in the meantime need to be preparing for the way in which the Council can include local communities in decision making on forward planning matters when the time comes. On this note it is helpful that we have been able to advance work on the local Character Area Assessments (see separate report on this agenda) which has to a good degree engaged local groups and will form a good platform in which to launch other work in due course.

1.4 Private Garden Land

- 1.4.1 New Ministers have been keen to emphasise their continuing support for the green belt but also have made another key change to stop the practice that has come to be described as 'garden grabbing'. To affect this change Planning Policy Statement 3 (PPS 3) has already been altered to exclude "private residential gardens" from the definition of previously developed land. This change obviously affects the planning policy context that needs to be applied to development proposed in such locations. It does not mean that it prohibits development, but it clearly signals that private residential gardens should have a lesser presumption in favour of development than previously developed land as defined in Annex B of PPS3. As always in planning, particular proposals will need to be judged on their individual merits within this policy context and in this respect our Character Area Assessments will be particularly helpful in making those judgements.
- 1.4.2 In amending PPS3, the opportunity has also been taken to delete the indicative minimum density of 30 dwellings per hectare which is a response to the call to drive down densities of development on new schemes.

1.5 The Challenge for Local Development

1.5.1 Within this changing policy context, Government Ministers have reaffirmed their commitment to address housing shortfall and in particular access to affordable housing. Perhaps the most challenging aspect of localism is likely to be how local authorities can bring forward proposals for development with the support of local communities. Part of the challenge will be in understanding the real needs of local communities in terms of their housing and other requirements, but it has also been recognised that other measures might be needed to facilitate local development, perhaps in the shape of financial incentives to local authorities and to local people. There is little detail on this particular aspect to date. There are also suggestions that formation of Local Housing Trusts could include special planning powers in order for development to be brought forward to address locally identified housing needs. Again more detail is expected.

1.6 Gypsy and Traveller Provisions

1.6.1 The revocation of the SE Plan also means the end of regional targets for the provision of Gypsy and Traveller sites. The Panel's report on the Gypsy and Traveller Examination in Public will not be published. Local Authorities will now be responsible for determining the right level of provision reflecting local need and historic demand. The advice is that the approach should be based on Gypsy and Traveller Accommodation Assessments although local authorities will not be bound by them.

1.6.2 The CLG have also said that relevant regulations and guidance on this matter will be reviewed. This is critical because at the moment proposals for Gypsy and Traveller development is afforded a considerable favourable presumption which hampers the ability of local authorities to plan and effectively enforce against unauthorised development. No changes in this respect have yet been made, although calls for enforcement powers for local authorities to be generally strengthened and streamlined have come from various quarters, not least the Leaders of Kent Local Authorities. These have included particular representations on the need for change in respect of unauthorised caravan sites.

1.7 Legal Implications

1.7.1 There are none arising directly from this report although many of the changes emerging will require legislative and regulation change.

1.8 Financial and Value for Money Considerations

1.8.1 There are none directly arising from this report but depending upon the detail of the changes brought forward and the guidance issued in respect of partnership working with local communities, a review of the extent and type of resources will be required. Members should however be aware that one of the casualties of the need to address the overall budget deficit has been the abandonment of Housing

and Planning Delivery Grant which the Council has benefitted from considerably in recent years.

1.9 Policy Considerations

1.9.1 Clearly the actual and emerging changes to the planning system will have a fundamental affect on the future of our own planning policy framework and its implementation through the development control and management process. For the time being Members are recommended to endorse the position that we do not at this stage take any steps to review any part of the Local Development Framework but this position be monitored in the light of evolving Government policy and guidance and any changes in local circumstances..

1.10 Recommendations

1.10.1 Members **note** the key changes that have been made to the planning system primarily at the regional and national scale and the likely further initiatives to be brought forward in the Localism Bill.

1.10.2 The sound and up to date position of the Council's Local Development Framework **be recognised and endorsed** subject to the changing picture being kept under review.

1.10.3 A training and awareness session for Members **be held** on 8 September 2010.

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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Open Source Planning Green Paper
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