

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

16 May 2012

Report of the Director of Planning, Transport and Leisure

Part 1- Public

Matters for Information

1 THE NATIONAL PLANNING POLICY FRAMEWORK, LOCALISM ACT AND NEIGHBOURHOOD PLANNING

This report provides an update for Members following the publication of recent Government policy and guidance on planning and summarises the main issues arising for the Borough Council and its communities.

1.1 Background

1.1.1 Members will recall that previous reports to this Board have provided updates on the emerging new planning system as information has become available. Since the last Board meeting in February, a number of important publications have been received and this note seeks to summarise the main issues arising. Another report on this agenda provides an initial response to the new guidance in reviewing the Local Development Framework (LDF) towards a new Local Plan.

1.1.2 The Localism Act received the Royal Assent on the 15th November 2011 and included 29 main provisions under four headings dealing with:

- New freedoms and flexibilities for local government;
- New rights and powers for communities and individuals;
- Planning reforms to make the system more democratic and effective; and
- Reforms to ensure that decisions about housing are taken locally.

1.1.3 Some of these provisions came into force immediately, others have been subject to commencement orders and some are awaiting the publication of regulations before they can be fully utilised. The fifth commencement order was made in April and most of the main provisions have now come into force.

1.1.4 On the 25th March 2012 the Government published new national planning policy for travellers (please note, the term 'travellers' now covers gypsies, travellers and travelling showpeople). The Government intends to incorporate this into the National Planning Policy Framework (NPPF) in due course, once the implementation of the policy has been reviewed.

1.1.5 On the 27th March, the Government published the final version of the NPPF, which came into force immediately as a material consideration in determining planning applications and for the purposes of preparing local plans.

1.1.6 New regulations for local planning and neighbourhood planning also came into force on the 6th April.

1.2 The Localism Act and Planning Reforms

1.2.1 There were 9 main provisions under the heading of planning reform set out in the Localism Act. These were:

- **Reforming the Community Infrastructure Levy**

In brief: more flexibility in how the charge is set, the ways in which the levy can be used and new measures to ensure a proportion of the levy goes directly to the communities where the development takes place.

- **Nationally significant infrastructure projects**

In brief: Abolition of the Infrastructure Planning Commission. Ministers are to decide major infrastructure applications in future.

- **Strengthening enforcement rules**

In brief: Limited strengthening of powers for Local Planning Authorities, for example, in taking action against deliberately concealing unauthorised development and to “turn-away” retrospective applications where an Enforcement Notice has already been issued.

- **Abolition of Regional Spatial Strategies**

In brief: There is a new power enabling the Secretary of State to abolish regional plans. This power is in force but has not been exercised to date as the Secretary of State has yet to complete certain procedures and until such times as the South East Plan is revoked, it will continue to form part of the Development Plan. (There appears to be every intention to abolish as soon as possible.)

- **Duty to Co-operate**

In brief: A new requirement on Local Planning Authorities to demonstrate that they have collaborated with neighbouring authorities in planning for the strategic elements of Local Plans. This will be a new test of soundness for the new plans.

- **Reform of the way local plans are made**

In brief: Changes to the procedures for preparing local plans, for example, Inspector’s reports will no longer be binding. For information, the key stages of

preparation envisaged for Local Plans are very similar to those used in preparing Development Plan Documents in LDFs

- **Requirement to consult communities before submitting certain types of applications**

In brief: A new requirement for potential applicants to carry-out consultation with local communities on certain (probably larger) applications. Applicants will also have to demonstrate how they have had regard to the views of the community. Further guidance on the type of application is awaited, but it is likely to be in the region of over 200 units for residential and over 10,000 sq.m for non-residential, or 2Ha and 4Ha respectively.

- **Neighbourhood Planning**

In brief: New rights for local communities through either a Parish Council, where they exist, or a Neighbourhood Forum in non-parished areas, to prepare neighbourhood plans. Plans can be simple or detailed and (once adopted as part of the development plan) will allow for the granting of planning permission. They must be in accordance with national planning policy and the strategic elements of the Local Plan and importantly they cannot promote less development than is already set out in the Local Plan. They are subject to similar procedures for preparing local plans and are subject to a local referendum at the end of the process.

- **Neighbourhood Development Orders and Community Right to Build Orders**

In brief: Parishes or Neighbourhood Forums can also promote Neighbourhood Development Orders (NDO) for certain types of development in their area. The Community Right to Build Order is a special type of NDO that can be promoted by community organisations within a local community to bring forward development projects. Subject to meeting certain criteria and securing local support through a referendum, they can facilitate development without the need for a traditional planning permission.

1.2.2 The main issues for us arising from the planning reforms in the Localism Act relate to the abolition of the South East Plan, which currently forms part of the development plan and is reflected in the adopted LDF. The gap left by the revocation of the regional plan will need to be addressed in a new Local Plan for the Borough, which is the subject of a further report elsewhere on the agenda. In responding to the task in hand it will be important to address the new duty to cooperate with neighbouring Local Planning Authorities.

1.2.3 The other key issue with regard to policy planning arising from the Localism Act relates to neighbourhood planning. There is no obligation on Parishes or neighbourhood forums to prepare these plans, so it is currently unknown how many may come forward. At least one Parish has expressed an interest at the time of

writing. There will be an opportunity to update and advise Parishes of the potential opportunities and threats associated with preparing neighbourhood plans and also draw attention to resource implications at the Parish Partnership Panel meeting on the 17th May.

- 1.2.4 Local Planning Authorities are obliged to provide some assistance to Parishes and neighbourhood forums in preparing neighbourhood plans. Local Planning Authorities are also required to organise and fund certain parts of the process, such as the referendum so there is a potential resourcing and funding issue for the Borough Council at a time when the critical matter will be preparing a new Local Plan...

1.3 The National Planning Policy Framework (NPPF)

- 1.3.1 The Government published the NPPF at the end of March as anticipated and maintained the brevity with the document running to only 58 pages. However, the NPPF acknowledges that it does not cover significant infrastructure projects or waste policy, which will be the subject of a further document and the travellers policy published separately on the 25th March is yet to be incorporated. It is also worth noting that a 24 page Technical Appendix was published the same day providing further guidance on minerals and flooding.
- 1.3.2 The final version of the NPPF addressed most of the concerns raised by the Council in respect of the draft last year. The document retains the presumption in favour of sustainable development, but also now stresses the primacy of the development plan in making planning decisions; the 'plan-led' approach. Importantly, although the NPPF became a material consideration on publication, it makes it clear that full weight can be given to development plan documents adopted since 2004 until the 27th March 2013, so long as there are no *significant* conflicts with the NPPF. A preliminary assessment of our adopted LDF Development Plan Documents suggests that there are no major conflicts with the NPPF. It is important to note that the LDF policies will continue to carry significant weight after the 27th March 2013 and that this date should not be seen as a 'cliff edge' in terms of relevance of these policies.
- 1.3.3 In parts of the country where there is no adopted Core Strategy, or where adopted plans are silent on a particular policy matter, the NPPF will apply. While this is not the case in here, it will nevertheless be important to review the LDF at the earliest opportunity to address the gap that will be left when the South East Plan is revoked and to ensure that by next March we can demonstrate that we are progressing towards a new Local Plan that is robust, up to date and reflects the NPPF. Another report on this agenda will address this issue in more detail.
- 1.3.4 A summary of the key points of the NPPF was circulated to Members shortly after publication and this note is attached as **Annex 1** for information.

1.4 Planning Policy for Traveller Sites

- 1.4.1 This document was published two days before the NPPF. It may have been the Government's intention to incorporate it into the NPPF, but the intention is now to test it before taking that step. The Gypsy and Traveller Issues Panel considered the document at its meeting in April.
- 1.4.2 A most significant issue in the context of a new Local Plan is the ongoing requirement on Local Planning Authorities to assess the need for traveller accommodation and plan for meeting those needs. There is more discretion to make local assessments for the purposes of planning and the duty to cooperate with neighbouring authorities will be a key consideration. This will form part of the evidence base for the new Local Plan.

1.5 Legal Implications

- 1.5.1 There is a legal requirement on the Authority to adhere to the provisions of the Localism Act insofar as they relate to town and country planning. The Council acting in its capacity as Local Planning Authority also has to acknowledge that the NPPF is now a material planning consideration in the determination of planning applications and in taking forward the review of the LDF towards a Local Plan.

1.6 Financial and Value for Money Considerations

- 1.6.1 There are no financial implications arising directly from this report, which summarises the main points of the Localism Act and NPPF for Member's information. However, there are potential financial and resource implications arising from the preparation of a new Local Plan in response to these documents, which will form the basis of a separate report.

1.7 Risk Assessment

- 1.7.1 There are risks associated with not responding to the Government's planning reforms as set out in this report. The adopted development plan policies will continue to carry significant weight in determining planning applications until at least March next year, but after this time their relevance will diminish.

1.8 Equality Impact Assessment

- 1.8.1 See 'Screening for equality impacts' table at end of report

1.9 Policy Considerations

- 1.9.1 The policy considerations arising from the content of this report will be set out in a separate report on this agenda dealing with the review of the LDF.

Background papers: The Localism Act (November 2011), NPPF (March 2012), Planning Policy for Traveller Sites (March 2012)
 Nil

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Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	This report is for information summarising emerging government guidance. No decisions are proposed.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	This report is for information summarising emerging government guidance. No decisions are proposed.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.