

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**PLANNING and TRANSPORTATION ADVISORY BOARD**

**12 March 2013**

**Report of the Director of Planning, Transport and Leisure**

**Part 1- Public**

**Matters for Information**

**1 DEVELOPMENT CONTROL**

**Summary**

**To update the Board on recent key staffing changes, upcoming potential changes in the “permitted development” regime and procedural matters and appeal performance in light of a years’ experience of the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites.**

**1.1 Staffing**

1.1.1 While the Development Control (DC) Section has seen much change over the years one long serving key member of staff, Jill Hamilton, Area Planning Officer for Area, 1 retired before Christmas. We were lucky to be able to continue with a practice often used successfully in DC in the past and have been able to appoint from within and Emma Keefe has been Area Planning Officer for team 1 since the beginning of January (following competition with both external and internal applicants). We are filling Emma’s former post and replacing some other staff who have left or are on maternity leave so that there will be some further new faces in the DC teams over the next few months. A full ‘line up’ will be circulated to Members once the current changes have been put in place, recognising that contacts between Members and case officers in the area teams is a vital part of our business operation.

**1.2 Permitted development**

1.2.1 As Board Members will recall reservations were expressed at the Government’s proposals to radically increase the size of residential extensions that could be erected under permitted development rights. Subsequent to the formal publication of this intention there was much anxiety amongst Local Planning Authorities and other specialist bodies concerned at the adverse environmental impact that would arise. At one time it was implied by Government informal spokespersons that there might be some mitigation of the original proposition. To date it has become no clearer what, if any, extension of the domestic permitted development rights will occur and when they will take effect. It is conceivable that this will occur

between this and the next meeting of the Board. When this happens we will brief Members further.

- 1.2.2 Members will also recall that the Government is proposing to extend certain other permitted development rights for a three year period with the intention of stimulating the local economy and increasing house building. This turns on the change of use of commercial office floor space (use class B1(a)) to residential (use class C3) and possible commercial re-use of some agricultural buildings. It has been suggested that both measures could be in place by April 2013.
- 1.2.3 On 24<sup>th</sup> January the Chief Planning Officer at the Department for Communities and Local Government wrote to all Chief Planners inviting them to consider whether they would like to apply for an exemption to the proposed extension of permitted development rights allowing change of use from commercial to residential use. The letter explained that exemptions would only be considered in exceptional cases and where local planning authorities could demonstrate that the new measures would lead to the loss of a nationally significant area of economic activity or substantially adverse economic consequences at the local authority level that were not offset by the positive benefits such a change would bring
- 1.2.4 It is most unlikely in our opinion that such a claim for an exemption would be successful in Tonbridge & Malling (or indeed for most of the country) and consequently, an application for exemption has not been made. Amongst those authorities that we are aware are applying for exemption are the City of London and London Boroughs claiming nationally significant office districts, such as Westminster, where residential values are also so high as to challenge office values with a consequent risk of loss of offices which may have a detrimental impact on the ability of London to continue to compete as a world city.
- 1.2.5 A number of Kent Districts have also expressed an interest in applying for the exemption, including Tunbridge Wells and Sevenoaks, but it is less clear how these authorities will support their claims.
- 1.2.6 Latest news in the professional press suggests that in view of the strength of feeling against this proposal from the major cities across the Country that the Government may be forced to further review this change before implementation (for risk of judicial review by the likes of the Greater London Authority).

### **1.3 Procedural matters**

- 1.3.1 Consultation is taking place on the Government's proposed amendments to requirements for and the content of Design and Access Statements and some other procedural matters to do with documentation accompanying planning applications.
- 1.3.2 Our feeling is that over the last decade the amount of formal documentation required to support and validate applications has grown exponentially in the light of Government guidance and legislative change and that what is now proposed

together with provision to require this Council to review its own local validation requirements are a sensible attempt to balance the needs of adequate information being provided whilst avoiding an unnecessary administrative burden.

- 1.3.3 There has also been a consultation on the technical aspects of refining and speeding-up appeals processing. In general officers have found these proposed changes practical subject to modifications suggested in the response to the consultation.
- 1.3.4 The above changes will be implemented as and when the necessary legislation is finally enacted.

#### **1.4 NPPF and the allied Planning Policy for Traveller Sites (PPTS)**

- 1.4.1 NPPF/PPTS have been with us for nearly a year now and the effects have been played-out in both the considerations of Area Planning Committees and to some extent in appeals.
- 1.4.2 Members may recall that in general Officers felt that the main policy thrusts, while being thoroughly imbued with thinking of the growth agenda, made less of a wholesale change in national policy than might have been anticipated earlier. There is no doubt that in terms of individual decision-making the reduced detailed content of NPPF, compared with earlier guidance/policy, is not without its difficulties in interpretation and this will inevitably become a little more difficult the further that we get from the March anniversary and before we have been able to refresh our Local Plan policies and in light of the practical outputs of the Taylor Review are published (see reports elsewhere on the Agenda)
- 1.4.3 As this report is drafted it is not yet clear that there has been any discernible *pattern* of impact of NPPF/PPTS on appeal decision making but it is fair to say that thus far none of the appeals, with regard to gypsy and traveller or travelling show persons cases and heard over the last few months, have yet been decided by the Inspector concerned.

#### **1.5 Appeal decisions**

- 1.5.1 As Members may recall the Government has indicated that it may use a Council's performance in successfully defending its decisions at appeal as a measure of satisfactory performance. While this has not been formally decided I felt that it might be helpful for the Board to be acquainted with the Council's performance in the last and the current financial year.

## 1.5.2

	2011-12		2012-2013 Qs 1 - 3	
	Refusals of planning permission	All appeals	Refusals of planning permission	All appeals
Appeals allowed	14%	19%	27%	24%
Appeals dismissed	86%	81%	73%	76%

1.5.3 There is no discernible pattern to the nature of those appeals that have been allowed. The number of appeals is quite low so that each individual decision can have a disproportionate impact on the percentages. Nevertheless the performance reflects a sound decision making approach in my view.

## 1.6 Legal Implications

1.6.1 None

## 1.7 Financial and Value for Money Considerations

1.7.1 None

## 1.8 Risk Assessment

1.8.1 None, this is an information report only

## 1.9 Equality Impact Assessment

1.9.1 See 'Screening for equality impacts' table at end of report

Background papers:

contact: Lindsay Pearson

Nil

Steve Humphrey

Director of Planning, Transport and Leisure

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
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?	N/A	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
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.*