

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

**1 DUTY TO COOPERATE – MAIDSTONE BOROUGH COUNCIL LIAISON**

**To advise Members of ongoing discussions with Maidstone Borough Council in respect of strategic planning matters, including progress on the preparation of the Maidstone Local Plan and opportunities for joint commissioning elements of the evidence base.**

**1.1 Background and Latest Position - Maidstone Core Strategy/Local Plan**

- 1.1.1 At the last meeting of the Board in November, Members received a report recommending to Cabinet endorsement of officer level comments in respect of Maidstone Borough Council's Core Strategy Allocations Document and a joint Integrated Transport Strategy prepared with Kent Highways.
- 1.1.2 It was noted that as part of Maidstone's preparation of its Core Strategy the Council had decided to publish and consult on these two additional documents setting out in more detail where the proposed housing and employment growth was to be located and how the impacts on local transport infrastructure could be mitigated.
- 1.1.3 Previously, Maidstone had reached what was then the Regulation 25 (Issues and Options) stage of the development plan process the previous autumn. Tonbridge and Malling Borough Council objected to the proposals, particularly in respect of the potentially adverse impacts of proposed developments along Hermitage Lane and the M20 junctions on the local highway network, the Strategic Gap and also on air quality. In the absence of any formal responses to the original objections and some new concerns arising from the allocations and Integrated Transport documents, Tonbridge and Malling reiterated its objections.
- 1.1.4 It was anticipated that the Council would then consider both sets of objections before moving to the next stage of the development plan process, a consultation on a draft Core Strategy (previously Regulation 26, but since April 2012 now known as Regulation 19). However at its meeting on 21<sup>st</sup> November 2012, Maidstone's Cabinet decided to postpone this next stage, pending the preparation

of new or refreshed evidence to support the levels of growth in the new plan. The reason for this decision was recent Planning Inspector's decisions on other plans where the evidence to support growth was found to be unsound and also a failure to meet the Duty to Cooperate. On this last point, Bath and North East Somerset was quoted as not examining its Strategic Housing Market Area (SHMA) properly only looking within its own administrative boundaries. This is a critical point for the Maidstone Housing Market Area, which extends into the Malling area of TMBC.

- 1.1.5 Maidstone has since been updating its SHMA, Strategic Housing Land Availability Assessment (SHLAA) and Strategic Economic Development Land Availability assessment (SEDLAA). It is now expected that the results of these studies will support a new draft Local Plan incorporating the allocations document, the ITS and a suite of Development Management Policies, which will be the subject of public consultations (Regulation 19) by the end of 2013.
- 1.1.6 Recent public reports refer to some of the emerging results of this work, for example, in respect of the 'Call for Sites', one of the elements of updating the SHLAA. Recently an article has referred to a new 'Garden Suburb' of 5,000 new homes at Otham and Langley proposed by Golding Homes. This has been proposed as a site that could contribute to the housing target in the new plan. It is not a firm proposal by the Local Planning Authority, although it will have to be considered along with any other sites submitted.
- 1.1.7 Reference has also been made to a new Interim Core Strategy to be published in March, which could release sites for development to the north west and south east of Maidstone. It is unclear what status such a document would have although Maidstone officers have indicated that only certain allocations and policies (those unaffected by new housing or employment targets) would be reported to Cabinet for approval for development management purposes.
- 1.1.8 This suggests that only those sites and policies that have not received significant objection will be brought forward and therefore will be considered to carry more weight than those that have in advance of the new Local Plan. It is not known which sites will be included at this stage (the Cabinet meet on the 13<sup>th</sup> March), however, given the extent of the objections received in respect of the sites of Hermitage Lane it is unlikely that these sites would carry any significant weight in the absence of a response from the Local Planning Authority.
- 1.1.9 One of the sites TMBC objected to in the allocations document is the site known as land east of Hermitage Lane. Whether or not it is included in the list of sites considered by Cabinet in March, the site (located north of the Maidstone Hospital, owned by Croudace Homes and extending into Tonbridge and Malling) is likely to come forward as a planning application for up to 700 dwellings in the next few months as an Environmental Impact Assessment Scoping exercise has recently been concluded. Maidstone BC has decided that the site is not an environmentally sensitive or vulnerable location and therefore no EIA is required.

- 1.1.10 When the remaining evidence base work is complete it is understood that a single document combining all the allocations and policies making up the new draft Maidstone Local plan will be published for consultation (Regulation 19). The Plan is expected to be adopted by the end of 2015.

## **1.2 Joint Working on Local Plan Evidence**

- 1.2.1 Officers from TMBC, Maidstone, Ashford and Swale have been working on a draft brief for joint commissioning of consultants to prepare a new SHMA since December. Due to the cross boundary nature of the Maidstone Housing Market Area, and in the light of the Duty to Cooperate, there is merit in considering a joint SHMA with Maidstone for the Malling part of the Borough as failing to have at least considered this could fall foul of meeting our own Duty to Cooperate. If this were to be agreed as a way forward, an update of the remaining part of the Borough forming part of the previous West Kent Housing Market Area (with Sevenoaks and Tunbridge Wells) would also have to be prepared to complete the TMBC evidence base.
- 1.2.2 The involvement of Ashford and Swale in this process is merely to secure some savings from joint commissioning. Their reports will be self contained.
- 1.2.3 Maidstone's work on the revised SHLAA and SEDLAA has been not been the subject of any joint working to date.

## **1.3 Concluding Remarks**

- 1.3.1 Officers have been working on strategic planning matters with colleagues in Maidstone during the last year and will continue to do so. One of the challenges of meeting the Duty to Cooperate is the fact Local Planning Authorities are often at different stages in plan preparation, but as Maidstone have adjusted their programme to reflect the Government's planning reforms and to ensure an up to date evidence base the anticipated adoption dates of both plans are converging.
- 1.3.2 As previously reported, the Duty to Cooperate does not necessarily mean a duty to agree and there will continue to be a proactive debate on how best to collaborate in addressing cross boundary strategic planning issues, which will be the subject of ongoing update reports to this Board. One of the most challenging aspects of the new Duty is the growing expectation, on the part of Planning Inspectors at least, that Local Plans will have proper regard to meeting development needs in a cross boundary way if that is justified by the evidence.

## **1.4 Legal Implications**

- 1.4.1 The Duty to Cooperate was introduced by the Localism Act in November 2011. It is a requirement of Local Plan preparation that has to be demonstrated at the Examination stage. Failure to do so will result in plans being found unsound. The Secretary of State for Communities and Local Government's recent decision to

revoke the South East Plan places the responsibility for strategic planning on Local Planning Authorities working together.

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

- 1.5.1 Joint commissioning of consultants with other local authorities can deliver savings as well as contribute to meeting the Duty to Cooperate.

## **1.6 Risk Assessment**

- 1.6.1 Failure to meet the Duty to Cooperate runs the risk of the Local Plan for Tonbridge and Malling being found unsound at the Examination stage. The absence of an up to date development plan can lead to an increasing number of appeals being lost with associated costs.

## **1.7 Equality Impact Assessment**

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

## **1.8 Policy Considerations**

- 1.8.1 Contributing to meeting the Duty to Cooperate and preparing an up to date evidence base will facilitate the review of the Council's land use planning policies set out in the development plan.

## **1.9 Recommendations**

- 1.9.1 That Members note the contents of this report and recommend to Cabinet endorsement of the continued liaison and potential joint working arrangements with Maidstone Borough Council in respect of the Local Plan evidence base.

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:

Nil

contact: Ian Bailey  
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Chief Planning Officer

<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?	No	This is an information report updating Members of ongoing working between officers.

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	This is an information report updating Members of ongoing working between officers.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

*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.*