

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
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27 February 2015

To: MEMBERS OF THE PLANNING AND TRANSPORTATION ADVISORY BOARD

(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Planning and Transportation Advisory Board to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 10th March, 2015 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

- | | | |
|----|--------------------------|-------|
| 1. | Apologies for absence | 5 - 6 |
| 2. | Declarations of interest | 7 - 8 |

3. Minutes 9 - 14

To confirm as a correct record the Notes of the meeting of the Planning and Transportation Advisory Board held on 18 November 2014

Matters for Recommendation to the Cabinet

4. Planning Reforms Update 15 - 24

Matters submitted for Information

5. Transportation Update 25 - 28
6. Local Plan Update 29 - 30
7. Sustainable Urban Drainage Systems (SUDs) 31 - 36
8. Urgent Items 37 - 38

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive

Matters for consideration in Private

9. Exclusion of Press and Public 39 - 40

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

10. Urgent Items 41 - 42

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr D A S Davis (Chairman)
Cllr M Parry-Waller (Vice-Chairman)

Cllr J Atkins
Cllr Mrs J M Bellamy
Cllr V M C Branson
Cllr F R D Chartres
Cllr D J Cure
Cllr M O Davis

Cllr Mrs F A Kemp
Cllr R D Lancaster
Cllr D W Smith
Cllr A K Sullivan
Cllr M Taylor

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Apologies for absence

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Declarations of interest

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Agenda Item 3

TONBRIDGE AND MALLING BOROUGH COUNCIL

PLANNING AND TRANSPORTATION ADVISORY BOARD

Tuesday, 18th November, 2014

Present: Cllr D A S Davis (Chairman), Cllr M Parry-Waller (Vice-Chairman), Cllr J Atkins, Cllr Mrs J M Bellamy, Cllr V M C Branson, Cllr D J Cure, Cllr M O Davis, Cllr Mrs F A Kemp, Cllr R D Lancaster, Cllr A K Sullivan and Cllr M Taylor

Councillors Mrs J A Anderson, J A L Balcombe, O C Baldock, M A C Balfour, P F Bolt, M A Coffin, R W Dalton, N Heslop, Miss A Moloney, Mrs S Murray, M R Rhodes, H S Rogers and R Taylor were also present pursuant to Council Procedure Rule No 15.21.

An apology for absence was received from Councillor D W Smith

PE 14/26 DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the Code of Conduct.

PE 14/27 MINUTES

RESOLVED: That the notes of the meeting of the Planning and Transportation Advisory Board held on 4 June 2014 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE CABINET

PE 14/28 LOCAL PLAN UPDATE

The report of the Director of Planning, Housing and Environmental Health provided an update on progress made on the Local Plan and sought approval for the revised timetable set out in Annex 1. The position in terms of timescales and next steps was summarised.

RECOMMENDED: That:

- (1) the content of the report be noted; and
- (2) the revised Local Plan timetable, set out at Annex 1 to the report, be approved.

***Referred to Cabinet**

PE 14/29 LOCAL PLAN PROCESS AND PROGRAMMING

The report examined some of the statutory elements that made up the Local Plan and sought approval for a new Statement of Community Involvement and Scoping report for a Sustainability Assessment.

RECOMMENDED: That

- (1) the revised Statement of Community Involvement and the Sustainability Appraisal Scoping Report, attached as Annexes 1 and 2 respectively to the report, be approved for adoption by Cabinet; and
- (2) the revised Local Plan timetable, attached as Annex 1 to the Local Plan Update report presented earlier on the agenda, form the basis of a new Local Development Scheme.

***Referred to Cabinet**

PE 14/30 PLANNING AND TRAVELLERS CONSULTATION - PROPOSED RESPONSE

Decision Notice D140131MEM

The report summarised the key proposals and potential implications for Tonbridge and Malling Borough Council of the Planning and Travellers consultation by the Department for Communities and Local Government. A suggested response was set out for consideration.

It was reported that the proposals would have some significant implications for the Borough Council, particularly as the changes to the definition of Traveller for planning purposes and assessing future need would reduce the assessment for future provision. This was because currently an allowance was made for those parts of the Travelling community living in bricks and mortar which could 'hide' a future need for pitches if children of those families wanted to adopt a more traditional lifestyle.

In addition, of the current authorised, tolerated and unauthorised sites in the Borough most occupants did not travel in the way suggested by the proposed definition so it remained unclear how many of these sites would be included in a new needs assessment.

The proposals for increasing the protection for sensitive areas and the Green Belt would also have implications for Tonbridge and Malling as over 70% of the land area was designated Metropolitan Green Belt and had two Areas of Outstanding Natural Beauty.

RECOMMENDED: that

- (1) the content and summary of the Department for Communities and Local Government Consultation on Planning and Travellers be noted; and
- (2) the comments in section 1.4 of the report form the basis of the Borough Council's response by the deadline of 23 November 2014.

PE 14/31 TRANSPORTATION UPDATE

Decision Notice D14032MEM

An update on transportation issues affecting the Borough was provided in the report with particular reference to train services. The updated Tonbridge and Malling 'Manifesto for Improved Rail Services' was presented for consideration.

In addition, funding streams and awards via the South East Local Enterprise Partnership (SELEP) and the Strategic Economic Plan (SEP) were set out.

The supplementary report of the Director of Planning, Housing and Environmental Health, tabled at the meeting, summarised the Airports Commission consultation, launched on 11 November, and set out the headline points. A full response would be prepared and submitted by the consultation deadline of 3 February 2015.

Members were pleased to note that the Tonbridge town centre regeneration scheme had been awarded a share of the Government's Single Local Growth Fund allocation of £2.37 million.

It was reported that Southeastern were currently developing plans for some improvements to the facilities for buses, pedestrians and cyclists at Snodland station, together with additional parking. A funding contribution from the Local Sustainable Transport Fund would ensure prompt delivery of a quality scheme which would support the 'High Speed' service stopping at Snodland in the New Year. Whilst Members welcomed the improvement works, swift action on delivering the additional parking and bus service improvements was encouraged in order to make Snodland a practical and attractive travel option.

The Borough Council also continued to lobby for improved rail connections to Gatwick airport and this was included in the updated rail services Manifesto.

RECOMMENDED: that the updated Manifesto for Improved Rail Services, attached as Annex 1 to the report, be endorsed, subject to a minor amendment about the cost of parking on page 12.

PE 14/32 SUSTAINABLE URBAN DRAINAGE SYSTEMS

Decision Notice D140133MEM

The report advised of a recent consultation by the Department for Communities and Local Government and DEFRA on sustainable urban drainage systems and sought endorsement for officer level comments submitted to meet the consultation deadline.

It was reported that whilst the fundamental need for the proposed new approach was welcomed it had to be accompanied by practical mechanisms and funding that ensured systems were properly provided and maintained.

RECOMMENDED: that the response to the consultation, set out in Annex 1 to the report, be endorsed.

[In accordance with Council Procedure Rule 8.5 of the Constitution Councillor M Taylor asked that his vote against the recommendation be recorded.]

**PE 14/33 USE OF INTERIM GUIDANCE NOTE 3 STANDARDS IN
ASSESSING PARKING PROVISION IN RESIDENTIAL SCHEMES**

Decision Notice D140134MEM

The report set out recommendations for a revised approach to the use of Interim Guidance Note 3 Standards in Assessing Parking Provision in Residential Schemes.

Members welcomed the revised approach set out and asked that as part of the longer term, wider review into parking standards the size of vehicles, including vans, be considered. Concern was also raised regarding permitted development rights and 'historic parking' need. However, Members were advised that options would continue to be explored in an effort to address areas of concern.

RECOMMENDED: That the proposals set out in paragraphs 1.2.1 to 1.2.3 of the report be adopted and applied henceforth and until such time as any alternative Standards are adopted in a new Local Plan.

PE 14/34 FLOODING REVIEW

Decision Notice D140135MEM

The report provided an update on progress made on flood recovery within the Borough following the events over the Christmas/New Year period. Proposed measures to provide increased protection for local residents and businesses for the future were set out, with particular

reference made to the partnership approach on the Leigh Flood Storage Area and the associated funding arrangements.

Members expressed concern that the flood improvement measures would not be in place this winter and sought reassurance that the temporary solutions and contingency planning would be adequate in the event of a flood. In response, the Environment Agency's (EA) commitment, at the highest possible level, to provide flood protection for Tonbridge and the surrounding area was reiterated. Officers were working closely with the EA on contingency planning but recognised the concerns of Members and residents. However, as the EA was the statutory body with overall responsibility the Borough Council recognised their expertise in dealing with flood improvement measures.

RECOMMENDED: That

- (1) the position set out in the report, including a contribution of £100k from the Flood Recovery and Defence reserve towards an assessment of the options and the delivery of an outline design for the Leigh Flood Storage Area scheme, be noted and endorsed; and
- (2) Officers continue to liaise closely with the Environment Agency and put forward a clear representation of the Borough Council's wish to pursue the most robust solutions in the case of all the proposed flood mitigation works.

PE 14/35 RESPONSE TO DCLG CONSULTATION ON THE 'RIGHT TO BUILD'

Decision Notice D140136MEM

The report summarised the consultation document published by the Department for Communities and Local Government on 23 October 2014, highlighted some of the issues and proposed a response on behalf of the Borough Council. The deadline for comments was 18 December 2014.

The current consultation and proposed legislation was aimed at removing perceived barriers facing custom builders such as finding access to suitable plots of land to build on and reducing the amount of 'red tape' of the regulatory regimes that governed the development process.

Members noted the concerns regarding potential resource and cost implications for Local Planning Authorities and the impact this might have on the Local Plan evidence base and timetable.

RECOMMENDED: That:

- (1) the summary of the consultation document and the potential implications for the Borough Council of the proposed Right to Build legislation be noted; and
- (2) the suggested response set out in the report and Annex 1 be endorsed.

MATTERS SUBMITTED FOR INFORMATION

PE 14/36 DCLG REVIEW OF HOUSING STANDARDS

Members received an update on the Government's intentions regarding the Building regulations and dwelling space standards.

MATTERS FOR CONSIDERATION IN PRIVATE

PE 14/37 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information, the following matters be considered in private.

MATTERS FOR RECOMMENDATION TO CABINET

PE 14/38 TOWN LOCK CAPITAL PROJECT

(LGA 1972 – Sch 12A Paragraph 3 – Financial or business affairs of any particular person)

Decision Notice D140137MEM

The report provided an update on progress made in relation to the Town Lock project and set out a revised programme for the implementation of the scheme.

RECOMMENDED: That the report be noted and tenders be invited for the project from the Environment Agency's select list.

The meeting ended at 9.35 pm

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

10 March 2015

Report of the Director of Planning, Housing and Environmental Health Services

Part 1- Public

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

1 PLANNING REFORMS UPDATE

This report provides Members with an update on the Government's recent and on-going planning reforms and requires a decision in relation to the negotiation of Affordable Housing contributions.

1.1 Introduction

1.1.1 The Government has continued to introduce further significant planning reforms, for example, by updating National Planning Practice Guidance (NPPG) or consulting on proposals. This report provides a brief summary of the main items since the last Board meeting in November

1.2 Recent or Impending Changes

1.2.1 Planning Contributions for Affordable Housing

1.2.2 On 28 November the NPPG was amended to set new thresholds for seeking affordable housing contributions. The Government believe this will remove some of the financial burdens on small scale house builders. These changes came into force immediately and are therefore part of the consideration of any relevant planning application and reflected in advice in Committee reports.

1.2.3 In brief, contributions for affordable housing can no longer be sought from developments of 10 units or less and with a gross floor area of no more than 1,000sq.m. In designated rural areas (as defined by Section 157 of the Housing Act 1985), Local Planning Authorities have the discretion to use a lower threshold of 5 units or less. The only such designated rural areas in Tonbridge and Malling are the Areas of Outstanding Natural Beauty (AONBs) of which there are two in the Borough, broadly in the north/north west and south of the Tonbridge bypass.

1.2.4 Residential annexes and extensions are exempt from affordable housing contributions. However, the changes do not apply to rural 'exception' sites, the main purpose of which is to deliver affordable housing as an 'exception' to the application of other prevailing planning policies.

- 1.2.5 This has implications for the implementation of adopted planning policies in Tonbridge and Malling. The adopted planning policy will be the starting point in determining applications, but the NPPG will carry significant weight as a material consideration.
- 1.2.6 Core Strategy Policy CP17 addresses affordable housing. In urban areas the threshold for seeking contributions from a proposal is 15 dwellings or 0.5 hectares.
- 1.2.7 The new threshold of 10 units is below the 15 unit threshold in CP17, so there will be no noticeable change based on the number of units proposed. However, in future, on sites that are 0.5 hectares or above, contributions can only be sought if the proposal is for 11 dwellings or more, or the combined gross floor space of the development is over 1,000sq.m. Previously, contributions would have been required on sites over 0.5 hectares regardless of the number of units proposed.
- 1.2.8 For rural areas there is a more significant change. The LDF currently describes rural areas as the entire area outside the defined urban areas. Policy CP17 requires affordable housing contributions in rural areas for proposals of 5 dwellings or more or a site area of 0.16 hectares.
- 1.2.9 However, as noted above, the NPPG only identifies those parts of the Borough designated as an AONB as being eligible for a lower threshold. Therefore, in all other rural areas, the thresholds will, in future, be the same for urban areas (i.e. contributions can only be sought on proposals of 11 or more dwellings or where the gross floor space is over 1,000sq.m). I find this distinction between AONBs and other rural areas to be rather artificial in terms of applying policy concerning affordable housing, but that is the position we are bound to follow.
- 1.2.10 In the AONBs, the threshold of 5 units can still apply, meaning financial contributions can be sought from proposals of 6 units or above (although it is worth noting that in future this will only be in the form of commuted sum cash payments for proposals of between 6 -10 units and then only at the completion of that development).
- 1.2.11 The new thresholds do not apply in the case of rural exception sites and therefore Policy CP19 remains unaffected.
- 1.2.12 The changes to NPPG in November also introduced the concept of **vacant building credit** in respect of calculating affordable housing contributions. This means that where a vacant building is brought back into use or demolished to be replaced by a new building, the developer is offered a financial credit equivalent to the gross floor space.
- 1.2.13 This latter provision could have serious consequences for affordable housing contributions arising from brownfield developments where there are eligible vacant buildings. This is not a matter open to negotiation by the Council – it is required by Government Practice Guidance. In light of the opportunity to continue to secure

contributions on sites of between 6 and 10 units in the AONBs, we have considered whether it would be appropriate to recommend to Members that such an approach is justified. The most recent research in the SHMA indicates an unmet need for affordable housing provision in Wards of the Borough within the AONBs. On this basis it appears that the most recently available evidence justifies the adoption of the 5 unit threshold for sites in the AONBs. I recommend that the Board supports such an approach at the end of this Report.

1.2.14 Sustainable Urban Drainage Systems (SUDs)

1.2.15 From 6 April 2015, planning applications for developments over 10 units of housing, or non-residential developments of equivalent scale, will be subject to new requirements for SUDs to be put in place, unless it can be demonstrated that it would be inappropriate so to do. This will be a **material consideration in determining planning applications after 6 April** and will have to be reflected in Local Plan policy in due course.

1.2.16 The Government is still considering future arrangements for statutory consultees relating to SUDs which will have implications for Lead Local Flood Authorities (Kent County Council for Tonbridge and Malling) and the Environment Agency (EA). However, Government has yet to publish the necessary secondary legislation or associated guidance and so exactly how the process will be required to work within the planning system is not yet known.

1.2.17 Details of the changes post 6 April and implications for TMBC are addressed in a separate report on this agenda. Although there must undoubtedly be key roles for KCC and the EA, it seems that the Borough Council as Local Planning Authority will carry the ultimate responsibility for approving schemes.

1.3 **Current Government Consultations**

1.3.1 Stepping onto the Property Ladder

1.3.2 This consultation, which closed on 9 February, sets out Government proposals for a **new national starter homes 'exception site' policy** to enable starter homes to be built on under-used or unviable brownfield sites that are not currently identified for housing.

1.3.3 In brief the proposal would work in a similar way to the rural exceptions policy. Local Planning Authorities would work positively with landowners and developers to secure sites that would be suitable for housing for first time buyers.

1.3.4 Underused brownfield sites not allocated for housing would be identified as 'exception sites', which would have a presumption in favour of residential development for starter homes (to be offered for sale at least 20 per cent below market rates), unless there were overriding considerations in terms of health, safety or infrastructure that could not be mitigated.

- 1.3.5 The homes would be offered to buyers who had not previously owned a home before, who would be less than 40 years of age at the time of purchase and there would be no resale at market value for a given time period (5 -15 years proposed). These developments would be exempt from developer contributions for affordable housing.
- 1.3.6 An officer level response to the set questions accompanying the consultation has been returned to the DCLG raising a number of significant concerns. Notwithstanding the normal detailed observations surrounding these proposals, such as defining the term 'underused', the main issue relates to the principle of establishing residential use on brownfield sites that might be allocated for other uses in the development plan, such as employment uses. This would not be an exception policy, but represent a new housing policy/allocation. It is also very difficult to see how, once a site is seen as suitable for housing in basic land use terms, it could be defended as a 'starter homes exception site' against pressure for general housing development, which might in itself offer some affordable housing!
- 1.3.7 The Officer level response can be found at **[Annex 1]** to this report and Members are invited to endorse the approach adopted therein.
- 1.3.8 Building More Homes on Brownfield Land
- 1.3.9 This consultation began in January and closes on 11 March. It seeks views on proposals to ensure that information on brownfield land that is suitable in principle for housing is monitored and made publicly available by Local Planning Authorities. The intention is that such land would be subject to Local Development Orders which would effectively grant outline planning permission for housing in order to meet the Government's target of 90 per cent of suitable brownfield land with LDOs by 2020. The Government is also seeking views on whether to introduce performance criteria that would place those Local Planning Authorities failing to do so in special measures.
- 1.3.10 It is not entirely clear how these proposals would interface with the previous Stepping onto the Property Ladder consultation, but the intention is to bring more underused or vacant brownfield sites forward for housing before considering greenfield sites.
- 1.3.11 There would appear to be few implications for Tonbridge and Malling of these proposed changes. Historically the Borough Council has achieved a very high level of use of brownfield land – 96 per cent on average 2006/7-2011/12 recorded in the Annual Monitoring Report (AMR). The emerging Strategic Housing Land Availability Assessment (SHLAA) looks likely to identify most of the brownfield sites in question. Many of those that meet the proposed criteria already have planning permission. In any event, it is questionable how the introduction of LDOs would make much practical difference when, in policy and development control terms, there is such a clear presumption in favour of brownfield development.

1.4 S106 Negotiations

1.4.1 The Government has very recently published a further consultation regarding a new potential S106 disputes resolution procedure. This seems to take as its underlying assumption that the failure to conclude a S106 agreement results from recalcitrance on behalf of LPAs. While this might be the situation in some cases, I am bound to say that our experience is that often a developer will wish to wait for the final completion of a S106 until he is absolutely ready to commence a land purchase or start a development. There are, indeed, some current major cases where the developer is the party currently ‘holding’ draft agreements for completion. We will need to give serious consideration to the suggested “improvements” in processing S106 disputes and will respond to the Consultation, which is due by 19 March.

1.5 Concluding Remarks

1.5.1 The march of Government planning reforms, either proposed or actual, is currently remorseless. Officers are responding to consultations where appropriate and taking necessary action in determining planning applications and preparing the new Local Plan. The rate of change from potential reforms and the actual impact on service delivery from those reforms already introduced is noticeable, but not necessarily in a positive way.

1.5.2 Moreover and in addition to the reforms described in this report, Ministerial statements also have some impact on the interpretation of planning policy and these are also being monitored. For example, the Housing and Planning Minister Brandon Lewis MP, recently wrote to the Mayor of London to confirm the latter’s intention to publish further alterations to the London Plan. In the letter he welcomed the Mayor’s commitment to responding positively and quickly to address the expected increases in London’s population, but he also took the opportunity to remind him that areas beyond London’s boundaries will have their own challenges in meeting future housing needs and also to reiterate the Government’s policy on the Green Belt. This will help to inform the ongoing discussions between the Mayor and the GLA and the Local Authorities within the London city region.

1.6 Legal Implications

1.6.1 There are no direct legal implications arising directly from this report.

1.7 Financial and Value for Money Considerations

1.7.1 There are no financial or VfM implications arising directly from this report. There may be resource implications of some of the proposals described in this report in the future if they result in new roles and responsibilities for Local Planning Authorities.

1.8 Risk Assessment

- 1.8.1 This report updates Members in respect of the Government's planning reforms. To not do so would carry the risk of the Authority being out of step with Government policy and practices.

1.9 Recommendations

- 1.9.1 That Cabinet be advised to adopt a threshold of 5 dwelling units for the securing of affordable housing contributions for proposed development in the AONBs.
- 1.9.2 That the Board endorses the response to DCLG consultation as set out in **[Annex 1]**.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Ian Bailey

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health Services



Stepping onto the property ladder consultation

Tonbridge & Malling Borough Council response

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Please find below the officer-level response from Tonbridge & Malling Borough Council.

Q1. Do you agree in principle with the idea of a new national Starter Homes exception site planning policy to deliver more new low cost homes for first time buyers?

A1. No. An exception site policy should just be that, i.e. an exception to policy. Looking for and identifying opportunities for starter homes is, in effect, identifying a new policy. After all, Local Plans do not identify specific sites as rural exception sites for affordable housing in rural areas.

It is not clear how local planning authorities are expected to reconcile this policy with the proposals that feature in the current consultation from the DCLG on '**Building more homes on brownfield land**'. This other consultation is focussed on similar areas and shares many requirements yet it makes no reference to the Starter Homes exception site policy. Given the threat of special measures if a local authority does not have in place Local Development Orders on brownfield land that meets a set of criteria, how can local planning authorities be expected to resist market housing on these sites once the principle of suitability has been established and in light of objectively assessed need, especially if the developer proves that discounting the market value will put at risk deliverability?

The social sustainability credentials of the policy are also questioned. Exempting such sites from affordable housing contributions will only exacerbate the current problem of delivering much needed social rented housing. It is unclear if such sites would be exempt from paying contributions to other pieces of community infrastructure including schools and healthcare. If we are to interpret the CIL exemption as meaning 'yes' to this question, the consequence is that existing infrastructure will be put under more strain and may not be able to support present and future needs of the people buying the properties, eg school places, GP surgeries etc.

Finally, it is unclear what size of sites this policy would apply to, i.e development potential for 1-2 units, 5 units, 10 units 10+ units? This is an important issue, not

least because it will define the magnitude of the problems highlighted in the previous paragraph.

Q2. Do you agree that the Starter Homes exception site policy should focus solely on commercial and industrial brownfield land which has not been identified for housing?

A2. No. If the objective of the policy is to ensure a supply of starter homes, then it should be applicable to larger market housing sites as well, i.e. a requirement for a proportion of the total number of units to be starter homes (20% discount of normal market values).

Q3. Do you agree that the types of land most suitable for starter homes will be under-utilised or non-viable sites currently (or formerly) in commercial or industrial use?

A3. Not necessarily (see answer to question 2).

Q4. Do you consider it necessary to avoid Starter Homes developments in isolated locations, or where there would be conflicts with key protections in the National Planning Policy Frameworks?

A4. Starter Homes development should be treated the same as any other development in isolated locations; they should be assessed against the requirements of the Development Plan, the National Planning Policy Framework and the National Planning Practice Guidance. There is no justification for such developments to be considered as an exception.

Q5. Do you agree that the Starter Homes exception site policy should allow at the planning authority's discretion a small proportion of market homes to be included when they are necessary for the financial viability of the Starter Homes site?

A5. No. If the principle of the suitability of a site for housing is established and market housing is considered acceptable (as suggested by the question), it is going to be very difficult for local planning authorities to resist applications for full market housing, given local evidence of objectively assessed needs and the threat of special measures if Local Development Orders are not in place (see answer to question 1, above). It is unreasonable to make comparisons with the flexibility allowed in the implementation of the rural exception sites policy because this is responding to specific local evidence of need and it is applicable at locations that are outside the confines of settlements, not within large urban areas.

Q6. Do you agree starter homes secured through the Starter Homes exception site policy should only be offered for sale or occupation to young first time buyers?

A6. In principle yes but it is questionable whether a specific age (40) should be stipulated. Without the support of evidence, this appears to be an arbitrary number to pick, which is unfair. I do not see why those people who may be in their early 40s who have yet to be in a financial position to afford buying a home should be discriminated against. Given the title of the Policy is 'Starter Homes Exception' the qualifying criteria should not focus on an upper age limit but the fact that the buyers are first time buyers.

Q7. Do you think there are sufficient existing mechanisms in place to police this policy?

A7. No comment.

Q8. What is the most appropriate length for a restriction on the sale of a starter home at open market value? How should the sliding scale be set?

A8. If the objective of the Policy is to deliver starter homes for first time buyers then this opportunity should be made available for as long as possible. It is questionable whether the lifting of the restriction should commence after only five years because this could result in the stock being lost to full market housing within a relatively short period of time which would undermine the policy and allow for the problem of people unable to get their foot on the housing ladder to resurface. As a minimum, the homes should be available as starter homes, i.e 20% discount, for at least 10 years. I see no justification for allowing the first incumbents to be in the position to unfairly profiteer within a short period, i.e. between 5 and 10 years, of moving into the property.

Q9. Do you agree that guidance should make clear it is inappropriate for Starter Homes exception site projects to be subject to section 106 contributions for affordable housing and tariffs?

A9. No. As highlighted in para. 26 of the consultation, the Starter Homes product is not a solution for those members of the community in greatest need of housing. As such it is considered that it would be inappropriate to exempt such schemes from section 106 contributions for affordable housing. The starting point should be that starter home proposals are treated the same as other housing applications and be liable to the affordable housing policy in the adopted Development Plan, subject to viability testing.

Starter Homes exception site projects should not be exempt from any tariff-based contributions to general infrastructure pots. The occupiers of the homes will be using local infrastructure including medical surgeries, libraries, schools (may be at some time in the near future) and roads. They will therefore put an added burden on these services. As such the developers of Starter Homes should be liable, as is the case for other forms of housing proposals, to the payment of tariffs otherwise there is the

ANNEX 1

risk that essential infrastructure may not be able to meet the needs of the local community.

Q10. Do you agree that Starter Homes exception site projects should be exempt from the payment of the Community Infrastructure Levy?

A10. No, please see answer to question 9, second paragraph.

Q11. Do you have any views on how this register (of first time buyers) should work and the information it should contain?

A11. The Government should work primarily with local authorities and draw upon information from the Housing Needs Register.

Q12. What kind of vanguard programme would be most helpful to support the roll out of Starter Homes?

A12. No comment.

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

10 March 2015

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 TRANSPORTATION UPDATE

Summary

This report provides an update on various significant transportation issues affecting the Borough.

1.1 **A21 Public Inquiry**

1.1.1 Members will be aware that the Department for Transport has engaged Balfour Beatty to upgrade the 2.5 mile section of the A21 between Tonbridge and Pembury in Kent from single to dual carriageway, adding a lane in each direction, upgrading junctions and improving the road layout.

1.1.2 The main construction starts in the spring and is programmed to be complete by December 2016.

1.2 **Funding for Transport Schemes**

1.2.1 Members will be aware that the Tonbridge town centre regeneration scheme was awarded a share of the Government's Single Local Growth Fund (SLGF), attracting an allocation of £2.37m. The total budget for this scheme is now £2.62m which includes £250k from KCC.

1.2.2 KCC are leading the implementation of this project as Highway Authority but your officers will maintain a strong input to the emerging detailed design and implementation stages, continuing the partnership approach we have adopted for the scheme.

1.2.3 Local Members have been kept updated through briefing sessions. There has been a well-attended exhibition in the Castle on the proposed scheme, one to one meetings with traders who may be affected by the project and ongoing public engagement throughout February where feedback has been encouraged on the proposals.

1.2.4 Works are programmed to commence this summer and will continue until next spring, with a break in December in order to minimise disruption to shoppers and traders over the Christmas period.

- 1.2.5 There will be a full report on this project, including the key matters arising from public engagement, to the Joint Transportation Board on 30 March.
- 1.2.6 In addition to this there are funding streams for West Kent available through the Local Sustainable Transport Fund (LSTF). This funding totalling £4.5m (but subject to additional match funding) is available for the West Kent Authorities of Tonbridge & Malling, Sevenoaks and Tunbridge Wells together with Maidstone Borough Council (for the purpose of this award) between 2015 and 2021.
- 1.2.7 TMBC are preparing bids for funding to support improvements to the bus, car and pedestrian interface at some of our key railway stations. Southeastern is currently developing plans for some improvements to the facilities for buses, pedestrians and cyclists serving Snodland station together with additional parking. Although Southeastern have access to some funding streams, a contribution from the LSTF would ensure we achieve prompt delivery of a quality scheme here, which will support the “High Speed” service which now stops at Snodland. We are also looking to bring forward some proposals for improvements at Hildenborough and Tonbridge stations. The latter will be an opportunity to build upon the improvements to the High Street and pedestrian linkages between the station and the rest of the town centre.
- 1.2.8 Junction 4 of the M20 has also been awarded funding (£2.19m) from the Single Local Growth Fund. This scheme to widen to the eastern overbridge will be progressed by the KCC Major Projects team with a start date programmed for March 2016.

1.3 A228 Colts Hill Bypass

- 1.3.1 The case for the A228 Colts Hill bypass, which would assist in providing a high standard of route between the M20 and the A21, has been pursued by Tunbridge Wells Borough Council (TWBC), with our support and that of the local Parish Councils, for a number of years. At present the route is not of an appropriate standard and has a poor accident record. The Rt. Hon. Greg Clark MP chairs a local group which looks to improve safety and traffic congestion along Colts Hill, preferably by constructing a new bypass. The group includes officers and councillors from TWBC, TMBC and KCC.
- 1.3.2 Realistically, it may be many years before funding can be identified for a bypass, and local measures to improve safety at the pinch points along Colts Hill may be the best that can be practically achieved in the short term.
- 1.3.3 We will maintain a presence on this group and report back as and when anything significant emerges.

1.4 Rail Issues

- 1.4.1 As a consequence of the continuing major investment in the rail network, particularly the enormous project at London Bridge Station (itself part of the

Thameslink Programme), and the new commitments by Southeastern Railway in their franchise extension, there will be significant changes to rail services until the summer of 2018.

- 1.4.2 The most significant change is that Charing Cross trains will not now stop at London Bridge until August 2016, with some stations services being transferred to Cannon Street.
- 1.4.3 On a more positive note, high speed trains to St Pancras from Maidstone West now stop at Snodland in the morning and evening peaks.

1.5 Lower Thames Crossing

- 1.5.1 The project to consider options for a Lower Thames Crossing has gained a new momentum. The Highways Agency (HA) has now been charged by the Department for Transport with taking the project forward and is currently reviewing all the options previously considered and some further variations.
- 1.5.2 The HA are working on the basis that 'do nothing' is not an option. Work is being undertaken on a variety of technical areas in order to move towards public consultation on options and proposed solutions at the turn of this year.
- 1.5.3 A stakeholder advisory panel has been established, chaired by the HA and including representatives from the local authorities and others affected by the project. I have been representing the Borough Council on this technical group, although it is still early days in the emerging work.
- 1.5.4 A key issue for us in consideration of options will be the potential impact on the transport corridors through the Borough (A20/M20, A228, A229, A227) and the communities along those routes, as well as the economic development issues that might arise. I will ensure that Members are kept informed of progress by the HA and that we are in a position to respond to consultation at the appropriate times.

1.6 Junction 5 (M25) Slips

- 1.6.1 KCC will shortly engage a consultant to undertake a high-level economic study to examine the case to support the provision of east-facing slips at Junction 5 of the M25. TMBC will make a proportionate contribution towards the cost of this initial study because of the clear potential benefits of reduced traffic congestion and improved air quality along the A25 through the communities of Ightham, Borough Green and Platt.

1.7 A20 Corridor

- 1.7.1 I am conscious that various local Members have been engaged in some discussions about traffic conditions on the A20 and adjoining routes. The A20 from the Borough boundary to Leybourne has been in focus due to peak time congestion, particularly at key junctions. We have been in initial contact with KCC Highways and Transportation about the prospect of a study to consider the

optimum approach to traffic movement along this corridor. This will be primarily a matter for the County Council and for the Joint Transportation Board. However, inevitably this work will be necessary in the Local Plan process so that any proposals that might emerge can be assessed in a meaningful context.

1.8 Legal Implications

1.8.1 None.

1.9 Financial and Value for Money Considerations

1.9.1 None directly for the Borough Council.

1.10 Risk Assessment

1.10.1 Not required.

Background papers:

contact: Mike O'Brien

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

10 March 2015

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 LOCAL PLAN UPDATE

This report provides members with an update of progress on the Local Plan.

1.1 Progress Since November 2014

1.1.1 Position Statement

1.1.2 Members will recall that at the last meeting of this Board it was agreed that a Position Statement would be prepared, explaining to a wide audience of interested parties the progress that has been made on the Local Plan and raising awareness of the revised timetable, in particular the first major public consultation exercise now anticipated to be this autumn.

1.1.3 The Position Statement has been uploaded on to the Council's website and copies sent to all Members, all Parish and Town Councils and those who have submitted sites under the Call for Sites exercise. An opportunity has also been taken to contact all of those on our mailing list wishing to be kept informed on development plan matters, alerting them to the version on the website.

1.1.4 Statement of Community Involvement (SCI)

1.1.5 This document has been refreshed and was considered at the last Board meeting. It has now been uploaded to the website following Cabinet endorsement in February.

1.1.6 Sustainability Appraisal (SA) Scoping Report

1.1.7 This document was also considered at the last Board meeting and has now been sent to the three Statutory consultees (Environment Agency, Natural England and English Heritage) inviting comments following Cabinet endorsement in February.

1.1.8 Strategic Housing Land Availability (SHLA) Assessment - Call for Sites Exercise

1.1.9 Progress has been maintained in assessing the sites submitted. The majority of the site visits have now been completed and the analysis concerning constraints, deliverability and suitability is now in hand. The results of the Call for Sites

assessment will inform the overall SHLA which is a key piece of evidence that will, in turn, inform the Local Plan development strategy in addressing the identified Objectively Assessed Need for the Borough.

1.1.10 Employment Land Review

1.1.11 The Employment Land review, another key piece of evidence, has now been completed and uploaded onto the website.

1.1.12 Strategic Flood Risk Assessment (SFRA)

Officers met with the Environment Agency (EA) in January to scope out the SFRA. The EA advised that the Middle Medway Strategy will now be completed in May. Further modelling work is also being carried out in respect of the tidal part of the Medway from Addington Lock. The evidence is clearly critical in influencing future development allocation.

1.1.13 Infrastructure Delivery Plan

1.1.14 Regular meetings are being held with the main infrastructure providers in preparation for more detailed assessments once the issues and options for planning future growth have been prepared. The Local Plan should, as far as practicable, seek to coordinate development and infrastructure investment and so this work will also be important in shaping the ultimate development strategy.

1.2 Legal Implications

1.2.1 The Council as Local Planning Authority is required to prepare a Local Plan for its area.

1.3 Financial and Value for Money Considerations

1.3.1 Ensuring that the Local Plan is prepared in accordance with national planning policy and guidance and based on a robust, up to date and proportionate evidence base will reduce the risks associated with submitting an unsound Plan for examination.

1.4 Risk Assessment

1.4.1 Failure to maintain an up to date Development Plan runs the risk of a lack of control in managing future development in the Borough and potentially increasing appeal costs, however this has to be balanced with making the best use of the Council's resources.

Background papers:

contact: Ian Bailey

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health Services

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

10 March 2015

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 SUSTAINABLE URBAN DRAINAGE SYSTEMS (SUDS)

Summary

This report advises Members of the new arrangements for requiring SUDs schemes for qualifying developments, including consultations with Kent County Council, which are due to come into force on 6 April 2015.

1.1 Introduction

1.1.1 The main function of sustainable drainage systems is to slow the rate of surface water run-off and improve infiltration by mimicking natural drainage in both rural and urban areas. This reduces the risk of “flash-flooding” which occurs when rainwater rapidly flows into the public sewerage and drainage systems.

1.1.2 At the last meeting of this Board in November 2014, Members were alerted about a Government consultation on proposed changes to the planning system to facilitate the delivery of SUDs. The Council submitted a response to the consultation.

1.1.3 This report provides a summary of the Government’s response to the feedback received during the consultation, what this will mean for local decision-taking, the practical issues for the management of cases through the planning system and some important issues around cost.

1.2 SUDs Consultation – Government Response

1.2.1 The Government has made it clear that it expects SUDs to be provided in new developments *wherever this is appropriate*. To this effect, the Government expects local planning policies and decisions on planning applications relating to major development (developments of 10 dwellings or more; or equivalent non-residential or mixed development) to ensure that sustainable drainage systems for the management of surface water run-off are put in place, unless demonstrated to be inappropriate. These changes will take effect from 6 April 2015. At the time of writing, the relevant secondary legislation does not appear to have been laid in Parliament and therefore detailed provisions are not yet clear.

- 1.2.2 To support local planning authorities in implementing these changes, the Government will publish revised National Planning Practice Guidance based upon National Standards in time for the policy changes to take effect, but this had not occurred at the time of drafting this report. The revised guidance will make the consideration of the use of SUDs a material consideration in planning for major development. The Government has indicated that provision of SUDs and their long-term maintenance should be secured through the use of appropriate planning conditions. As mentioned above, at the time of writing, these changes have not materialised which is of particular concern as it will be the responsibility of the Local Planning Authority to not only consider the technical merits of a SUDs proposal but also the long term management and cost so as to ensure that such costs do not threaten the viability of development. By implication, this must mean that if a SUDs solution is too costly it would not be appropriate to continue with that type of surface water drainage but rather use a more conventional below ground system.
- 1.2.3 In addition, the Government has proposed to engage with local government on a capacity building programme in response to concerns expressed by consultation respondents. Details on what this might entail have yet to be published.
- 1.2.4 **Consultation with Lead Local Flood Authorities (LLFAs) (for this Borough the LLFA is Kent County Council)** – The report to the meeting of this Board in November 2014 drew to the attention of Members our concerns as to the technical capacity of local planning authorities to determine sustainable drainage proposals and appropriate measures for their maintenance. This was a common concern amongst many consultation respondents, in particular the certainty of obtaining the right expert advice, in good time, from a third party. Local planning authorities in their response also felt that sourcing expert advice, even from LLFAs, that are likely to be the key consultee, could lead to delay unless a consultee is legally required to provide advice
- 1.2.5 The Government, in its response, agreed that the LLFA are best placed to give such advice in light of the recently enacted provisions in the Flood and Water Management Act 2010 that have given these bodies overall strategic responsibility for local flood risk management including surface water. As mentioned above, for Tonbridge & Malling the Lead Local Flood Authority is Kent County Council. To ensure that advice is provided to Local Planning Authorities within an adequate timeframe the Government undertook a consultation between 18 December 2014 and 29 January 2015 which proposed to introduce the LLFA as a *statutory* consultee on major planning applications with surface water drainage implications. The Government is currently analysing the feedback. It is anticipated that a response, and therefore detailed procedural guidance, should be published shortly given that the Government has stated that the changes will take effect from 6 April 2015.
- 1.2.6 **Maintenance of SUDs** – As indicated above, the Government is of the view that it has given Local Planning Authorities the tools necessary to enforce the conditions

they attach to planning permissions and that those tools could be reasonably used to ensure that sustainable drainage systems are effectively maintained long-term. Furthermore, the Government believes that local communities will be alert to the risk of property flooding if systems are not properly maintained and will have an interest in reporting any non-compliance with planning conditions.

- 1.2.7 **Costs of SUDs** – According to independent research, commissioned by the Department for Environment, Food and Rural Affairs, maintenance costs on average are no higher than the average charge for conventional piped surface water drainage. In addition, informal and limited discussions between the Government, developers and their service managing agents has revealed that the actual figures for maintenance of some sustainable drainage systems within managed open spaces can be much, much lower. The Government has made it clear that developers will have responsibility for securing long-term maintenance arrangements of SUDs and that this will be achieved through appropriate planning conditions/or S106 obligations as appropriate. Commuted sums paid by developers for maintenance of sustainable drainage are not favoured by the Government as the default option. Indeed it is far from clear which bodies would be in a position to adopt such systems in order to then draw on commuted maintenance payments. Where a local authority opts to take on the long term responsibility, the Government expects them to use their existing powers to charge for maintenance at cost recovery only.
- 1.2.8 The limited experience of the *long-term* maintenance liabilities of SUDS leads me to think that adoption of such systems would be quite unattractive to smaller local authorities, especially as it is far from clear that there is a robust mechanism for predicting long-term maintenance costs. Where water companies are willing to take on responsibility for maintenance, the sustainable drainage system could be included either within their ordinary charging scheme or outside this scheme were the water company to offer its services as a Service Management Company. It seems to me that inevitably the most likely outcome will be the establishment of a Management Company to take on a number of facilities in addition to SUDs (such as open space, play space, woodland etc.) and that as LPA the Council should require suitable management arrangements through planning controls.

1.3 Legal Implications

- 1.3.1 On the assumption that all of the necessary statutory provisions are in place by that time then decisions on planning applications relating to major development from 6 April 2015 will need to ensure that sustainable drainage systems for the management of run-off are put in place, unless such a solution is demonstrated to be inappropriate.

1.4 Financial and Value for Money Considerations

- 1.4.1 According to the Government's response, the changes that will take effect from 6 April 2015 could result in costs to the Council – *should it be minded to take on*

long-term responsibility of maintaining SUDs – but these costs can, in theory, be fully recovered. Further detailed assessment of likely costs, and relevant recovery of those cost, would be needed before the Council could be confident that it would be appropriate to take on such a role either in principle or on any specific case.

- 1.4.2 The other significant financial issue related to this matter is that thus far Government have not recognised any ‘new burdens’ that the proposed system will have on local planning authorities. Its assessment is that, effectively, the new role can be accommodated without any extra cost. This is plainly not the case in my view as it will demand some significant new work and administration. Similarly, only modest burdens have been identified to fall on the LLFA, whereas they (in our case KCC) will need to incur potentially significant costs in order to fund the resources and expertise required to advise LPAs in their capacity as a statutory consultee.
- 1.4.3 To demonstrate the point on these financial burdens, a letter from the Local Government Association to the Secretary of State for Environment, Food and Rural Affairs is attached at **[Annex 1]**. Various lobbying initiatives are in hand by The District Councils’ Network and others on this important point and I have made arrangements to ensure the Borough Council’s interests are put forward in that context.

1.5 Risk Assessment

- 1.5.1 There is a risk that Borough Council decisions on planning applications on qualifying development could be challenged if they do not comply with the requirements of the revised National Planning Practice Guidance that is due to take effect from 6 April 2015.

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background papers:

contact: Nigel De Wit

Delivering Sustainable Drainage Systems Consultation
(DEFRA and DCLG, September 2014)

Delivering Sustainable Drainage Systems Consultation – Government Response
(DEFRA and DCLG, December 2014)

Steve Humphrey
Director of Planning, Housing and Environmental Health

Rt Hon Elizabeth Truss MP
Secretary of State for the Environment, Food and Rural Affairs
Department for Environment Food and Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

25 February 2015

New duties for Lead Local Flood Authorities as statutory consultees in planning for major development in relation to surface water drainage.

Dear Elizabeth,

I write further to my letter in December in relation to the new duties for Lead local Flood Authorities (LLFAs) as statutory consultees on surface water drainage that will come into force on 6th April 2015.

The LGA and local authorities support government's intention to ensure that sustainable drainage systems (SuDS) are put in place for new development and support the principle of more closely aligning SuDS approval with the planning process. Our key concerns are to ensure that the new arrangements deliver SuDS effectively to reduce flood risk and that this is done in a way that does not result in delays within the planning process.

Since I last wrote to you on this issue in December, the LGA provided an assessment of the likely costs arising from the new responsibilities. Defra officials have subsequently shared with us the new burdens assessment which assumes a significantly lower assessment of costs, both in terms of preparation for the new role and ongoing costs of delivering the responsibilities. LGA officers are working with your officials to provide further evidence on the resource implications for LLFAs and Local Planning Authorities (LPAs) however, I wanted to draw your attention to key concerns arising from these discussions.

Firstly, it is clear that the role that LLFAs had expected to play in providing technical advice to Local Planning Authorities will not be deliverable within the resources set out under the new burdens assessment. In addition, the new burdens assessment assumes no new burdens on Local Planning Authorities. However, Local Planning Authorities have expressed concern that as they will not have access to technical expertise on SuDS themselves they will be reliant on LLFAs to provide this and are concerned that without sufficient resources this could lead to delays in processing applications and discharging conditions. This is clearly not what is intended and risks undermining Government's ambitions to speed up planning processes.

There is a need for a shared understanding that the level of funding to be provided to LLFAs will mean a light touch approach to providing technical advice on surface water drainage, much like the Environment Agency (EA) currently do. Our suggestion is that where more technical advice is needed, this could be dealt with in two ways. The LPA could put in place a planning condition that the developer must seek approval from the local water and sewerage company on the design of

the SuDS scheme to be constructed, before development commences. Alternatively, developers could be required to seek technical assessment of the SuDS design from the LLFA during pre-application discussion. This would need to be paid for on a cost-recovery basis and the assessment shared with the LPA to inform decision-making on the planning application.

Given the late changes to the role LLFAs and LPAs are expected to play, it is welcome that the new burdens assessment recognises that LLFAs will face additional upfront costs in the first year of their new role as they set up the necessary systems, provide training and raise awareness. They are also likely to incur additional costs in responding to requests for advice from the 6th April before the systems are place which will mean the service will be more expensive to run in the first year. LGA officers are working with your officials to ensure that these issues are taken into account in the resources provided in the first year.

In the longer term, our view is that responsibility for approval, adoption and maintenance of SuDS should sit with Water and Sewerage Companies within their existing regulatory regime. It is also our view that the costs of processing applications should be fully funded by planning application fees. This would ensure that planning authorities were adequately resourced to process applications and discharge conditions relating to SuDS.

However, given that we are now five weeks away from the date when the new duties will come into force, there is an urgent need to clarify what is expected of Lead Local Flood Authorities and Local Planning Authorities and the resources available for them to deliver that role. I would ask that the issues set out above are considered in your decisions about the resources made available, not least for preparation and set-up costs, to enable LLFAs and LPAs to gear up as quickly as possible to ensure that the new duties can be implemented in a way that does not lead to delays in processing planning applications.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mike Jones', is written over a horizontal dashed line.

Councillor Mike Jones
Vice Chair, Economy, Environment, Housing and Transport Board.

cc Brandon Lewis – Minister of State for Communities and Local Government

Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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