

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building  
Gibson Drive  
Kings Hill, West Malling  
Kent ME19 4LZ  
West Malling (01732) 844522

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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  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

28 August 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, 8th September, 2015 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

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**Matters for consideration in Private**

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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**

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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 Miss S O Shrubsole (Vice-Chairman)

Cllr M A C Balfour  
Cllr Mrs S M Barker  
Cllr P F Bolt  
Cllr V M C Branson  
Cllr T Edmondston-Low  
Cllr B T M Elks  
Cllr Mrs F A Kemp

Cllr R D Lancaster  
Cllr L J O'Toole  
Cllr M Parry-Waller  
Cllr S C Perry  
Cllr R V Roud  
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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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### PLANNING AND TRANSPORTATION ADVISORY BOARD

Monday, 8th June, 2015

**Present:** Cllr D A S Davis (Chairman), Cllr Miss S O Shrubsole (Vice-Chairman), Cllr M A C Balfour, Cllr Mrs S M Barker, Cllr P F Bolt, Cllr V M C Branson, Cllr T Edmondston-Low, Cllr B T M Elks, Cllr Mrs F A Kemp, Cllr L J O'Toole, Cllr M Parry-Waller, Cllr S C Perry, Cllr R V Roud, Cllr A K Sullivan and Cllr M Taylor

Councillors Mrs J A Anderson, O C Baldock, M A Coffin, D J Cure, M O Davis, Mrs T Dean, N J Heslop, B J Luker, Mrs A S Oakley, M R Rhodes, H S Rogers and T C Walker were also present pursuant to Council Procedure Rule No 15.21.

An apology for absence was received from Councillor R D Lancaster

#### **PE 15/8 DECLARATIONS OF INTEREST**

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

#### **PE 15/9 MINUTES**

**RESOLVED:** That the notes of the meeting of the Planning and Transportation Advisory Board held on 10 March 2015 be approved as a correct record and signed by the Chairman.

#### **PE 15/10 INTRODUCTORY PRESENTATION**

An introductory presentation was given for the particular benefit of new Members on the role and scope of the Advisory Board, the main areas being planning and development, transportation, land drainage, flood attenuation and technical services.

### MATTERS SUBMITTED FOR INFORMATION

#### **PE 15/11 LOCAL PLAN AND TRANSPORTATION UPDATE**

The report of the Director of Planning, Housing and Environmental Health provided an update on progress towards the Local Plan, Government planning reforms and any relevant strategic transportation matters since the last meeting of the Advisory Board.

Particular reference was made to the preparation of the evidence base for the Local Plan including advice sought from the consultants, G L Hearn and Partners, on the impact of the new Government Household Projections on assessed housing need for the Borough. An

outline was given of the Government's starter homes initiative and 'Right to Buy' legislation which was likely to have a wider effect on planning for affordable accommodation. Members also expressed concern about the potential impact on the Council's economic regeneration efforts arising from the amendment of permitted development rights that allowed the change of use from shops or offices to residential.

The Advisory Board was informed that preliminary works on the A21 dualling had taken place with completion of the scheme due in spring 2017. The report updated the position on funding for transport schemes in the Borough including Tonbridge Town Centre Regeneration and Snodland Station forecourt improvements funded through the Local Sustainable Transport Fund.

The officers responded to a range of questions and comments from Members.

### **MATTERS FOR CONSIDERATION IN PRIVATE**

#### **PE 15/12 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 8.58 pm

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

08 September 2015

Report of the Director of Planning, Housing and Environmental Health

#### Part 1- Public

#### Matters for Recommendation to Cabinet - Non-Key Decision

#### 1 TONBRIDGE AND MALLING LOCAL PLAN

This report provides an update for Members on important progress made towards the preparation of the Local Plan and specifically the initial outcome of the Call for Sites exercise, which closed on the 1<sup>st</sup> September. It also proposes revisions to the timetable to reflect the next stages of the Local Plan preparation, which will include a full assessment of potential sites to inform options for the development strategy and ultimately land allocations in the Plan. This is an important milestone in preparation of the Local Plan and a stage that will no doubt generate significant interest. Officers will provide a short presentation at the Board meeting to highlight the key issues.

#### 1.1 Local Plan Update since the last Board meeting

- 1.1.1 In June Members received an update on the Local Plan which noted that the Strategic Housing Market Assessment (SHMA) had been revised to take account of the DCLG Household Projections published in February. Although the final report was still awaited at the time of the meeting, the revised objectively assessed need of 673 new homes per annum was subsequently confirmed and the SHMA update report (June 2015) has now been uploaded to the evidence base pages on the Council's website.
- 1.1.2 The objectively assessed need figure will form an essential starting point for the consideration of the Local Plan development strategy and ultimately site allocations. It is very clear, from national policy guidance, key Government statements and the result of many other local plan public examinations that the expectation is that local planning authorities should strive to properly address such identified need in order to meet significant housing shortfalls and support local economic investment.

## **1.2 The Call for Sites Exercise and the Strategic Housing Land Availability Assessment (SHLAA).**

- 1.2.1 While the SHMA is a key part of the Local Plan evidence base setting out future housing needs, the SHLAA identifies potential sites for meeting those needs as well as sites for employment and other uses. To be included in the SHLAA, sites have to be suitable, available and achievable, or in other words, have a reasonable prospect of meeting identified needs over the Plan period (2011-31). Some sites may be suitable (i.e. would deliver the sort of development that is needed, meets market requirements and satisfies physical constraints such as flood risk) and achievable (i.e. be economically viable), but not be available, due to operational requirements, legal or ownership problems. Others may be available and suitable, but unviable and so on.
- 1.2.2 Once sites have been assessed and are considered to meet these requirements they can be included in the SHLAA and this will form part of the Local Plan evidence base. However, this in itself does not mean that all of these sites will be allocated or developed during the Plan period. Different strategies will be considered and proposed during the Issues and Options stage of the Plan making process and be subject to public consultations before preferred choices are made. Only those sites which are sufficient to meet the identified needs and best fit the chosen strategy will be included as development allocations in the draft Local Plan.
- 1.2.3 In addition to the Local Planning Authority itself considering and proposing future sites for inclusion in the SHLAA, National Planning Practice Guidance (NPPG) states that plan makers should issue a call for potential sites and broad locations for development. This is an important feature of the current approach to local plan preparation and enables any party to bring forward land and sites for consideration by the Borough Council. Our 'Call for Sites' exercise was launched in March last year and closed recently on the 1<sup>st</sup> September. Setting a closing date enables all of the sites submitted to be carefully considered and assessed before the SHLAA is published.
- 1.2.4 At the time of writing this report a total of 220 submissions had been received in response to the Call for Sites exercise, although some of these were duplicates meaning 212 separate sites have been proposed. In addition, there are 23 other sites identified for inclusion by officers to ensure that the Borough Council and its communities will have a comprehensive picture of the choices available in site selection when the time comes. It will immediately be noted that there are a diverse range of sites in terms of size and scale. The locations and outlines of all the submissions can be seen on the map appended to this report and will be displayed at the meeting. There will also be an update in the event of any further sites being proposed up to the deadline on the 1<sup>st</sup> September.
- 1.2.5 It is very important to note that the purpose of this map is for illustrative purposes only in order to inform and advise Members of the number, general scale and

distribution of the sites that are now coming forward and being assessed which, in turn, demonstrates the scale of the task in hand. Key to the assessment process will be consultations with external consultees such as Highways England, the Environment Agency, Kent Highways and Kent Education Services, which are currently in hand. These consultations will assist our own technical appraisal of the sites at this stage.

- 1.2.6 It seems likely that some of these sites will not meet the requirements set out in 1.2.1 above and may be taken no further. Many others will warrant further assessment of their policy, technical and practical suitability. When the final SHLAA is published next spring as a piece of evidence, it will be accompanied by a report explaining the results of the assessments. It is important to be very clear that the identification of sites at this evidence gathering stage is no indication of the ultimate inclusion in the local plan. It is simply part of the process leading to the examination of options which will be the task in the next phase of the Plan's production. However, bearing in mind the nature of the information now held following the 'Call for Sites', it is timely for Members to be apprised. It is also important to say that inclusion of a site as part of the 'Call for Sites' exercise does not represent a material consideration in the event of a planning application being made before the Local Plan is adopted. Applications received will be determined in accordance with the adopted planning policies in place at the time and any other relevant material planning considerations.

### **1.3 Revisions to the Local Plan Timetable**

- 1.3.1 The Local Plan timetable was last revised in November 2014 and currently proposes a Local Plan Issues and Options stage with accompanying public consultation this autumn. The purpose of the Issues and Options stage is to present the results of the evidence gathering, identify the challenges that the new Plan will have to address in managing future needs for development (the issues) and consider some alternative strategies and sites to address them (the options).
- 1.3.2 The SHLAA sites will be an important consideration in developing the options, but due to the number and scale of the sites being assessed, incorporating meetings with technical consultees, it is not now anticipated that this task will be completed before early next year. As Members will readily appreciate the nature and complexity of some of the sites will require careful examination, not only to test the suitability of sites that the Council may wish to consider including as options for consideration, but also in justifying why sites should not be advanced any further. The latter is particularly important bearing in mind that any sites not included are quite likely to be advanced at the Public Examination and the Council will have to demonstrate sound reasons for its decision making and choices. A revised timetable is appended to this report for approval.
- 1.3.3 On the basis of the revised timetable it is anticipated that the November meeting of the Board will receive a report that will begin to scope out the Issues and Options stage in some more detail. Approval of the documentation and community

engagement arrangements will then be sought at the following meeting enabling consultations to take place in the spring.

- 1.3.4 Following the General Elections in May the Treasury published a document entitled 'Fixing the Foundations – Creating a More Prosperous Nation' (July 2015), which, among other things, made reference to the Government's Planning reforms and that further proposals will be brought forward to further streamline the length and process of Local Plans. In a Ministerial Statement in July the Planning Minister Brandon Lewis noted that Local Planning Authorities will be expected to have produced a Local Plan by 'early 2017' and that failure to do so may result in a Government intervention to accelerate production.
- 1.3.5 There is some ambiguity over what is meant by 'produced' and what stage of plan making this may be, but it is unlikely that a Local Planning Authority that is working towards a Plan for submission by early 2017 would be a priority for such intervention. The streamlining referred to in the Treasury report may also mean that the process becomes shorter as a result and the Council would be well placed to respond positively to any changes. Not wishing to appear complacent, but the Council's track record in plan preparation (and indeed the soundness and reliability of our currently approved plan to date) puts us in a good place. In any event, it seems more important to ensure that adequate consideration by the Council and consultation with communities is programmed, bearing in mind the nature of decision making that will be required.

## **1.4 Legal Implications**

- 1.4.1 The Council as Local Planning Authority is required to prepare a Local Plan for its area and in so doing is bound to follow the process, policy and guidance contained in the Planning Acts, the National Planning Policy Framework and National Planning Policy Guidance. .

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

- 1.5.1 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.

## **1.6 Risk Assessment**

- 1.6.1 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.

## **1.7 Recommendations**

- 1.7.1 That the contents of this report are noted and the revised Local Plan timetable at Appendix 2 is recommended to Cabinet for approval.

Background papers:

Nil

contact: Ian Bailey  
Planning Policy Manager

Louise Reid  
Head of Planning

Steve Humphrey  
Director of Planning, Housing and Environmental Health

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**Appendix 1  
(Map)**

Paper copies have been provided for the following:

- All Members of Planning and Transportation Advisory Board
- All Members of Cabinet

Hard copies of the map are available on request from Committee Services for all other Members. Early notification of this request is appreciated to ensure that sufficient copies are available for the meeting.

The map is also available to view on tablets as a supplementary paper to the main agenda.

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**Appendix 2**

**Timetable for the Local Plan to form the basis of a new Local Development Scheme – (Revised September 2015)**

Year	2015										2016										2017																	
Stage	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D		
Evidence Base	■	■	■	■	■	■	■	■	■	■	■	■	■	■																								
Issues & Options Reg 18											■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■												
Draft Plan Reg19/20																								■	■	■	■	■	■	■	■	■	■					
Submission Exam Report																																			■	■	■	■
Adoption																																						

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Notes: C = Consultations, S = Submission, P = Pre-examination meeting, E = Examination, R = Inspector’s Report received, A = Adoption

**Timetable for the Local Plan to form the basis of a new Local Development Scheme (Revised September 2015)**

Year	2018												2019												2020											
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Stage	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	
Submission Exam Report		R																																			
Adoption							A																														

Notes: C = Consultations, S = Submission, P = Pre-examination meeting, E = Examination, R = Inspector's Report received, A = Adoption

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

08 September 2015

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

#### 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 updates Members on the Government's ongoing programme of planning reforms, further amendments to national planning policy on affordable housing contributions and future proposals for further reforms.**

#### **1.1 Background**

- 1.1.1 Between 2010 and 2015 Government introduced a number of planning reforms, which have been taken into consideration locally in preparing the new Local Plan and also in terms of policy adjustments, most recently in respect of the thresholds and application of small scale affordable housing contributions, which was considered by this Board in March.
- 1.1.2 Following the General Election in May the new Government has set out proposals for further reforms, which this report summarises. In addition, a recent legal challenge by Reading and West Berkshire Councils has resulted in the amendments to the small scale affordable housing contributions being removed from the National Planning Practice Guidance, effectively returning to the situation as it was prior to the Ministerial Statement of the 28<sup>th</sup> November 2014.

#### **1.2 Revisions to the NPPG in respect of small scale affordable housing contributions.**

- 1.2.1 On 31<sup>st</sup> July the High Court found in favour of Reading and West Berkshire Councils who had challenged the Government's introduction of National Planning Practice Guidance in respect of thresholds for affordable housing contributions and also vacant building credit. The relevant sections in the NPPG have now been removed. In brief, the High Court found that the Government had acted inappropriately by introducing national planning policy in this way (i.e. in the form of a Ministerial Statement and through changes to the NPPG), which overrides policies in Local Plans that have been through the statutory processes. The Government should have observed the same principles or made the changes

through primary legislation. This could have significant implications for how the Government implements future planning reforms.

- 1.2.2 It is uncertain whether the Government will now pursue the same measures through primary legislation, but in the meantime the amendment to the adopted Policy CP17 in the Local Development Framework agreed by Cabinet on 24<sup>th</sup> March should also be reversed. Members will recall that this was to adopt a new threshold of 5 dwellings for the securing of affordable housing contributions for proposed developments in the Areas of Outstanding Natural Beauty only.

### **1.3 Future Reforms**

- 1.3.1 In May the Queen's Speech set out the new Government's priorities for new legislation for the current Parliament. The most relevant from a planning perspective is the Housing Bill, which will introduce new legislation for extending the Right to Buy to Housing Association tenants in England; the remaining provisions for implementing the Right to Build, to encourage self and custom builders; and the Starter Homes Initiative.
- 1.3.2 These changes will have implications for Local Planning Authorities ability to deliver and retain affordable housing and bring with them resource implications, particularly in respect of the new roles and responsibilities envisaged under the Right to Build, as previously outlined to this Board.
- 1.3.3 In July the Treasury published a document entitled 'Fixing the Foundations – Creating a More Prosperous Nation'. The report is wide ranging and addresses many aspects of the economy, including at Chapter 9 a section on 'Planning Freedoms and More Houses to Buy'.
- 1.3.4 A raft of measures are proposed including:
- Streamlining the process of preparing and length of Local Plans;
  - Encouraging Local Planning Authorities to produce Local Plans by 2017;
  - Provisions for the Government to intervene and arrange for Plans to be written if there are extended delays;
  - New proposals to improve cooperation between Local Planning Authorities through the Duty to Cooperate;
  - Further measures promoting the use of brownfield land;
  - Exploring the potential for higher density development around commuter hubs;
  - Tightening the planning performance regime; and

- Bringing forward the Starter Homes Initiative.

1.3.5 In the light of the recent High Court ruling on the use of Ministerial Statements and NPPG to introduce national policy, these measures may take some time to come into force.

## **1.4 Legal Implications**

1.4.1 There are no legal implications arising directly from this report other than those already addressed in the body of this report.

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

1.5.1 There are no direct financial implications arising from this report. Returning to Policy CP17 as adopted has the potential to deliver more affordable housing contributions in rural areas.

## **1.6 Risk Assessment**

1.6.1 Now that the Government has removed the amendments to the NPPG to reflect the High Court decision, failing to return to the previous policy stance carries the risk of leaving the Council's planning policy contrary to National Planning Guidance.

## **1.7 Equality Impact Assessment**

1.7.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and varies between groups of people. The results of this analysis are set out immediately below.

1.7.2 The affordable housing policy as currently worded may discriminate against those on lower incomes in rural areas seeking to access affordable housing as fewer contributions can be sought than in the adopted version of Policy CP17.

## **1.8 Recommendations**

1.8.1 That the content of this report be noted and that Cabinet be recommended to reinstate Policy CP17 as adopted in the Tonbridge and Malling Local Development Framework Core Strategy (September 2007).

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:

Item PE 15/3 'Planning Reforms Update'

contacts: Ian Bailey  
Planning Policy Manager

Louise Reid  
Head of Planning

Steve Humphrey

Director of Planning, Housing and Environmental Health



# Agenda Item 6

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 7

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 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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