

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

---

### Chief Executive

Julie Beilby BSc (Hons) MBA

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

---

**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)

4 January 2016

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, 12th January, 2016 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 - 12

To confirm as a correct record the Notes of the meeting of the Planning and Transportation Advisory Board held on 8 September 2015

**Matters for Recommendation to the Cabinet**

4. Review of Car Parking Fees and Charges 13 - 30
5. Review of Pre-application Planning Procedures and Charging Regime 31 - 50
6. Building Control Shared Service 51 - 56
7. Planning Reforms 57 - 74

**Matters submitted for Information**

8. Local Plan Programme and Progress 75 - 80
9. Transportation Update 81 - 84
10. Urgent Items 85 - 86

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**

11. Exclusion of Press and Public 87 - 88

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**

12. Urgent Items 89 - 90

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

This page is intentionally left blank

Apologies for absence

This page is intentionally left blank

Declarations of interest

This page is intentionally left blank



## TONBRIDGE AND MALLING BOROUGH COUNCIL

### PLANNING AND TRANSPORTATION ADVISORY BOARD

Tuesday, 8th September, 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 R D Lancaster, Cllr S C Perry, Cllr R V Roud, Cllr A K Sullivan and Cllr M Taylor

Councillors Mrs J A Anderson, M C Base, M A Coffin, R W Dalton, M O Davis, Mrs S L Luck, B J Luker, Mrs A S Oakley, M R Rhodes, H S Rogers, T C Walker and N J Heslop were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors O'Toole and Parry-Waller.

#### **PE 15/13 DECLARATIONS OF INTEREST**

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

However, Councillor Balfour advised the Members present that a member of his family had put forward some site submissions for the Tonbridge and Malling Local Plan and that he was also the Kent County Council Cabinet Member for Environment and Transport. As neither of these represented a Disclosable Pecuniary or Other Significant Interest at this stage he remained in the meeting during the discussion.

#### **PE 15/14 MINUTES**

**RESOLVED:** That the notes of the meeting of the Planning and Transportation Advisory Board held on 8 June 2015 be approved as a correct record and signed by the Chairman.

### MATTERS FOR RECOMMENDATION TO THE CABINET

#### **PE 15/15 TONBRIDGE AND MALLING LOCAL PLAN**

The Director of Planning, Housing and Environmental Health provided an update on the important progress made towards the preparation of the Local Plan and specifically the initial outcome of the Call for Sites exercise, which closed on 1 September 2015. A short presentation highlighting the key issues and setting the context for Members was also provided.

Proposed revisions to the timetable to reflect the next stages of the Local Plan preparation were also set out and included time to enable a full assessment of potential sites to inform options for the development strategy and land allocations in the Plan. It was reported that due to the number and scale of sites being assessed the original timetable had been revised to allow sufficient time for evidence gathering and proper technical evaluation around suitability, affordability, deliverability and/or constraints.

It was emphasised that this was an important milestone in the preparation of the Local Plan and significant public interest was anticipated.

Locations and outlines of all the submissions were set out in the Call for Sites map, attached as Annex 1 to the report. It was noted that the map was for illustrative purposes only in order to inform and advise Members of the number, general scale and distribution of the sites coming forward for assessment.

On the basis of the revised timetable, set out in Annex 2 to the report, it was anticipated that the next meeting of the Advisory Board in November would receive a report scoping the future needs for development (the Issues) and setting out some alternative strategies and sites to address them (the Options). It was therefore likely that the public consultation process would start in spring 2016.

Members asked questions and raised a number of issues including the duty to co-operate with neighbouring authorities, the importance of identifying the appropriate mix of employment and housing development land, ensuring adequate infrastructure to support local communities, amenity and green space and type of housing provision. Officers responded and noted the comments expressed for consideration as part of the assessment process.

In addition, Members were advised that a list summarising the name of sites and the organisations submitting sites would be prepared for information shortly.

**RECOMMENDED:** That the contents of the report be noted and the revised Local Plan timetable, set out in Annex 2 to the report, be approved by Cabinet.

**\*Referred to Cabinet**

**PE 15/16 PLANNING REFORMS UPDATE**

Decision Notice D150063MEM

The Director of Planning, Housing and Environmental Health provided an update on the Government's ongoing programme of planning reforms, further amendments to national policy on affordable housing contributions and future proposals for further reforms.

Particular reference was made to revisions to the National Planning Practice Guidance in respect of small scale affordable housing contributions and the successful challenge in the High Court which had judged that the Government had acted inappropriately by introducing changes in the form of a Ministerial Statement.

In the circumstances the amendment to the Borough Council's adopted Policy CP17 in the Local Development Framework, agreed by Cabinet on 24 March, 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 should also be reversed.

It was also reported that in May the Queens Speech had set out the Government's priorities for new legislation for the current Parliament. The most relevant for planning was the Housing Bill which would extend the Right to Buy to Housing Association tenants in England, the remaining provisions for implementing the Right to Build and the Starter Homes Initiative.

Finally, Members were advised of recent changes to Planning Policy for Traveller Sites and the removal of key words from the definitions of gypsies and travellers. An external consultant was reviewing the changes and further detail would be provided at the next meeting of the Advisory Board.

**RECOMMENDED:** That

- (1) the content of the report be noted; and
- (2) Policy CP17, as adopted in the Tonbridge and Malling Local Development Framework Core Strategy (September 2007) be reinstated.

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

##### **PE 15/17 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 8.50 pm

This page is intentionally left blank

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

#### Joint Report of the Director of Street Scene, Leisure & Technical Services and the Director of Finance & Transformation

#### Part 1- Public

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

### 1 REVIEW OF CAR PARKING FEES AND CHARGES

#### Summary

This report brings forward recommendations for car parking fees and charges for implementation from 1<sup>st</sup> April 2016. In addition, the report identifies a number of fees and charges for review over the forthcoming year.

#### 1.1 Introduction

- 1.1.1 Fees and charges for parking in the Borough are regularly reviewed in the context of current and planned service improvements and the operational management of the parking service as well as having regard to the Council's Medium Term Financial Strategy.

In bringing forward the proposals in this report, consideration has been given to the set of guiding principles for the setting of fees and charges established by the Council. The guiding principles can be summarised as follows;

- Fees and charges should have due regard to the Council's Medium Term Strategy and should reflect the Council's key priorities.
- If there is to be a subsidy from the Council tax payer to the service user this should be a conscious choice.
- The Council should look to maximise income subject to market conditions, opportunities and comparable charges elsewhere, in the context of its key priorities and other corporate aims and priorities.
- Fees and charges should be reviewed at least annually (unless fixed by statute or some other body).
- Fees and charges should not be used to provide a subsidy from the Council tax payer to commercial operators.
- There should be consistency between charges for similar services.

In addition to the above, consideration also needs to be given to a number of specific principles relating to the provision of a successful car parking service. In summary the Council should:-

- Seek to optimise the availability of parking.
- Manage assets in a fair, commercial and efficient manner.
- Generate adequate income to offset the cost of the parking service
- Balance the management of the car parks to meet the needs of all users
- Have in place suitable inspection and maintenance regimes to ensure it provides safe and well maintained opportunities for the public to park their vehicles.

This report considers current and potential fees and charges for parking, and following careful consideration of the aforementioned principles, brings forward a number of proposals. In summary the proposals are as follows:

- Short stay parking charges in Tonbridge to increase by 10p per hour including a 10p increase to the 30 min tariff.
- Residential preferential parking permits be increased to £40 across the whole Borough with new and existing applicants continuing to receive 10 visitor permits free of charge. The existing charge was introduced in 2011.
- Visitor permits be increased from £10 to £12 for 10 permits.
- Country parks – an increase from 80p to £1 for the first 4 hours, and the retention of season tickets (increased from £25 to £30 per annum) for regular users.
- Long stay parking in Tonbridge to increase by 10p per hour, capped to a maximum of £5.50.
- The charging and management regime for Lower Castle Fields car parks be brought in line with the other car parks within the town centre.
- Blue Bell Hill car park – revised charges to reflect the quality and convenience of facilities provided and the cost of the provision to the Council.
- West Malling – the introduction of a charging regime to the short stay car park to improve the availability of parking to the public and to offset costs. An increase in Season ticket charges in Ryarsh Lane to £150 per annum to offset costs.
- Borough Green – charges in the Western Road car park to increase by 10p and a charge of 40p be introduced for the first 2 hours.
- Evening and Sunday charging/concessions – to be the subject of separate reviews and a report back to Members.
- Peak and Off-Peak Season tickets – increases to reflect market conditions/demand.

- Business permits/dispensations for on-street – increases applied with the exception of permits for carers.
- Charges in other car parks – to be the subject of separate reviews and a report back to Members.

It is important for Members to note that whilst the Council regularly reviews its fees and charges for services provided for the local community, the last annual review of car parking charges in 2015 did not recommend any increases or other changes. Consequently there has been no increase in any parking charges in the Borough for the last 2 years.

## **1.2 Investment in the Parking Service**

1.2.1 The review seeks to achieve a balance between proactively managing parking on behalf of residents and businesses and securing a financial return to support the cost of the parking service. Many items contribute to this cost, such as maintenance of the car parks, enforcement, business rates, lighting, security measures, renewal of signs and lines and a considerable investment in the parking action plan to improve the management and convenience of parking throughout the Borough. Members will also note that car parking charges paid by users are subject to VAT. It is also true to say that many of the Council's car parks are potentially valuable land assets were they not to be given over for parking purposes, representing an 'opportunity cost' to the Council..

1.2.2 Over the two year period since the previous report to this Board, the Council has implemented a significant number of parking management initiatives. In the context of this review of fees and charges, it is worth setting these out so that Members as well as local residents and businesses can understand the totality of the parking service beyond the purely financial considerations and obtain a better perspective on the positive impacts that the parking service has on local parking conditions.

- Approximately £42,000 has been invested since 2014 on a range of on-street parking measures across the Borough.
- Improvement works to the value of £64,000 have been carried out at a number of car parks including resurfacing and enhancement to the Bradford Street car park, construction of a retaining wall in Lower Castle Field Car Park, refurbishment of the Borough Green car park steps and relining throughout many car parks.
- The Council's Capital Plan includes a substantial amount of expenditure to cater for capital renewals of equipment in car parks. The Council will be looking to renew the old ticket machines to bring them up to standard and to be capable of accepting the new coinage that will be launched later in

the next financial year. This has yet to be tendered but the pre-tender estimate for the contract is iro £160,000.

- The improvement work is underpinned by a continuing and consistent programme of maintenance work to keep the car parks safe and convenient for our customers. This programme also includes work on-street to keep all the signs and lines in the Borough clear and legible to support the enforcement work of the Civil Enforcement Officers (CEO). Annual provision for this programme of maintenance work is about £96,000. Business Rates are around £211,000 each year and to round off this section on maintenance and safety, CCTV provision amounts to £210,000 each year to keep the car parks safe and secure.
- The enforcement service, including the CEOs and the support team have recently been relocated to Kings Hill. This move, coupled with a change to the shift patterns has resulted in a more effective deployment of the CEOs. In real terms this means that staff are routinely patrolling later into the evenings at more varied locations across the whole Borough. The CEO team are critical to promoting a well ordered parking environment in the Borough that is responsive to local needs and pressures. Its costs are only partially recouped from income deriving from the issuing of penalty charge notices.
- The increasing operational activity has led to a rise in conflict. In recognising this we are proceeding with the provision of body worn cameras.
- There is also a need to invest in IT systems to assist both in the effectiveness and responsiveness of our CEOs and the back office IT parking management systems. Mobile technology has advanced and part of the evolving role of the CEOs now includes enforcing 'pay by mobile' systems. It is vital that the handheld devices used by the CEOs are fit for purpose and are renewed and updated to enable them to be as efficient as possible and to limit any errors.
- In addition, there is also a staff cost associated with implementing Local Parking Plans and the phased programme of more ad hoc parking interactions. This is integrated with other transportation related work but the input in an average year comes to about £60,000

1.2.3 Taking all these elements together, they amount to a significant investment by the Borough Council in seeking to provide a comprehensive and integrated parking service on behalf of residents and businesses, and provide an important context for the review of parking fees and charges that follows.



### 1.3 Comparative Charges

- 1.3.1 Comparison with the parking fees and charges of other Kent districts and private sector operators should not be a driver of what might be appropriate in this Borough, since local circumstances, such as the availability of short and long-stay parking, the convenience of the car park locations, and any “through the till” refunds offered by nearby businesses (such as Sainsburys, Waitrose and Iceland) are critical in such considerations. However, comparative charges do act as a guide and can be viewed by the public as to what might be considered the ‘going rate’ for parking. In addition, it is important to note that this Council does not currently charge at times that are now routinely charged for in many other districts such as charging on Sundays, public holidays, evenings, early morning and overnight. For these and other local reasons comparisons of charges outside the Borough and even within must be carefully qualified.
- 1.3.2 The scope of the review exercise covers consideration of all existing services and charges and includes an assessment of whether current circumstances justify them being maintained as they are or increased. In overview, a comparison of parking charges levied by neighbouring authorities would indicate the proposals are generally in line with others, although it is anticipated that most other Council’s will be bringing forward increases in the next financial year.

### 1.4 Off-Street Parking in Tonbridge – Daily Short and Long Stay Charges

- 1.4.1 Detailed in Table 1 below are the current and proposed charges for daily short and long stay car parking charges in Tonbridge.

**TABLE 1**

<b>Short Stay</b>		
<b>Period – Hours</b>	<b>Current Charge</b>	<b>Proposed Charge</b>
30 minutes	£0.50	£0.60
1 hour	£1.10	£1.20
2 hour	£1.90	£2.10
3 hour	£2.50	£2.80
4 hour	£3.00	£3.40
<b>Long Stay</b>		
1 hour	£1.10	£1.20
2 hour	£1.90	£2.10
3 hour	£2.50	£2.80
6 hour	£3.50	£4.10
All day	£5.20	£5.50

- 1.4.2 The proposals represent an uplift in charges by a minimum of 10p (the lowest denomination the pay and display machines accept), and 10p per hour increase

on each tariff, with the exception of the all-day tariff. Members are reminded that the current charges have remained unchanged for the last 2 years. This modest level of increase recognises the balance between the costs of provision and management of the Council's primary parking stock and the desire to support the economic sustainability of the town centre.

- 1.4.3 The all-day tariff is not recommended to exceed £5.50 as this is linked to the current all-day rate in the Tonbridge railway station car park, privately operated by Meteor.

## **1.5 Lower Castle Fields Car Park, Tonbridge**

- 1.5.1 In the past the Lower Castle Fields car parks (including the Swimming Pool car park and the Deaconsfield over-flow car park) have been treated slightly differently to the other car parks in the town.
- 1.5.2 Currently refunds for the first hour's parking are available to those using the swimming pool and a concession is applied on Saturdays so that charges only apply until 1pm to support attendance to the Saturday afternoon sporting fixtures. In addition the existing charges are slightly below others in the town centre, including the Upper Castle Field car park adjacent to the Castle.
- 1.5.3 Whilst it is not intended to change the arrangement for refunds for swimming pool users, the availability of free parking on a Saturday afternoon has led to the car park being regularly used by shoppers, which has the perverse effect of limiting parking availability for users of the swimming pool and the other leisure facilities in the vicinity. The current regime has become impractical and unhelpful and the time has now come for these car parks to be viewed simply as part of the town's overall parking stock that provides for a variety of users. The Chairman of Tonbridge Sports Association has been advised of the proposed charges and his views will be available at the meeting.
- 1.5.4 It is proposed to change the charges and management regime to mirror those that apply to the Upper Castle Fields car park and others and to extend the charging period to include Saturday afternoons. This charge will ensure a consistency of approach across the Council's car parks in Tonbridge town centre.

**TABLE 2**

<b>Lower Castle Fields Car Park</b>		
<b>Weekdays</b>		
<b>Period – Hours</b>	<b>Current Charge</b>	<b>Proposed Charge</b>
1 hour	£1.00	£1.20
2 hour	£1.70	£2.10
3 hour	£2.30	£2.80
6 hour	£3.30	£4.10
All day	£4.90	£5.50

<b>Saturdays</b>		
1 hour	£1.00	£1.20
2 hour	£1.40	£2.10
3 hour	£2.00	£2.80
6 hour	Not offered	£4.10
All day	£2.90	£5.50

## **1.6 Season Tickets, Tonbridge**

- 1.6.1 The Council currently offers Season Tickets to park all-day in the Sovereign complex (Sovereign Way East, Sovereign Way North and Vale Road) and Lower Castle Fields car parks. They are available on a monthly, quarterly, half-yearly and yearly basis.
- 1.6.2 The take-up of Season Tickets is good, with 225 issued. The most popular way of paying is annually (64.8% of sales), then half-yearly (28.4%), then quarterly (4%) and the remainder (2.8%) are monthly.
- 1.6.3 The current Season Ticket tariff provides an incentive to purchase annually, with shorter periods being weighted to reflect the additional administration required. The price of the Season Tickets take into careful consideration the charges applied at the Railway Station car park which has the advantage of being located immediately next to the Station. The current price of the Tonbridge Station season ticket is £1128.50

**TABLE 3**

<b>Season Tickets, Tonbridge</b>		
	<b>Current Charge</b>	<b>Proposed Charge</b>
Monthly	£95	£100
Quarterly	£265	£275
Half-yearly	£480	£500
Annual	£850	£900

- 1.6.4 The Parking Team has been approached by a number of people working in Tonbridge on a part-time basis requesting a more flexible approach to season tickets. It is suggested that consideration be given to an option to offer season tickets on a pro-rata basis. Subject to the outcome of the review a report will be submitted to Members at a future meeting.

## **1.7 Off-Peak Season Ticket, Tonbridge**

- 1.7.1 The Council offers an “Off-Peak Season Ticket” in Tonbridge that allows anyone to park between 4pm and 9am the next day (and all day Saturdays) for £240 per year in any of the Council’s car parks. The off peak availability of parking is of particular use to residents living in central Tonbridge. Members will note from Table 4 below that it is the intention to make an appropriate increase in the charge to £260 per year.

**TABLE 4**

<b>Off Peak Season Ticket, Tonbridge</b>		
	<b>Current Charge</b>	<b>Proposed Charge</b>
Off-peak season ticket (4pm-9am & Saturdays)	£240	£260

## **1.8 West Malling Car Parks**

- 1.8.1 West Malling has over recent years become a thriving town and this has brought with it greater pressures on parking. The Council has worked with a Steering Group involving representatives from the Parish Council and Chamber of Commerce to deliver a parking plan for the town, previously focussed on on-street parking. The aim of the steering group has been to oversee a parking plan which seeks to manage the difficult balance of parking demand from local residents, shoppers and other visitors, businesses and employees and commuters. Making the most efficient use of the limited parking stock and securing optimum turnover of spaces is part of that approach.
- 1.8.2 The Council has two important car parks in the town, both of which are operated at a significant cost to the Council. Parking is currently free of charge in the short stay car park and a nominal fee of £50 is charged in the Ryarsh Lane car park for an annual season ticket. The current approach to charging in the West Malling car parks has meant there are a number of operational problems, and together with the cost of the current provision by the Council, it is felt the time is right for a more fundamental review of how charging regimes can help manage the overall parking availability..
- 1.8.3 The current Season Ticket for the Ryarsh Lane car park is set at £50 per year and even though demand exceeds supply the costs per space far exceed the income achieved.
- 1.8.4 Privately managed, alternate long-stay parking is available relatively nearby at West Malling station – provided by Meteor and Kenden. Although it is recognised that this is less convenient for the town, the comparative cost of the parking is shown below in Table 5.

**TABLE 5**

<b>West Malling Long Stay Parking</b>				
<b>Parking provider</b>	<b>Daily Charge</b>	<b>Off peak Charge</b>	<b>Saturday Charge</b>	<b>Annual Charge</b>
Meteor (West Malling Station)	£4.50	£4.00	£2.50	£807.50 (£3.17 per day)
Kenden (West Malling Station)	£4.00	£4.00	£1.50	£640 (£2.50 per day)
Ryarsh Lane car park	Not available	Not available	Free	£50 (20p per day)

- 1.8.5 The Ryarsh Lane season ticket charges have understandably been attractive for local businesses to purchase for their staff. However, there is a tendency for businesses to retain permits even when not always required. The relative low cost of the permits seems to make this practice worthwhile and prevents spaces to be resold to those on the waiting list. It is, therefore, suggested that the season ticket prices be increased to a level which will encourage a better turn-over of spaces and cover the Council's operating costs. The proposal is to increase the cost of the season ticket to £150, which still only represents a charge of 60p per day.
- 1.8.6 There have been historic problems with inappropriate long-stay parking taking place in the High Street (Tesco) car park which is designed to operate on a short stay basis to support local shopping and other town centre visits. Parking used to be restricted to 4 hours, but the car park was popular with those working in the town, and it was common for cars to be parked all day.
- 1.8.7 To address this issue the Council introduced a 3 hour time limit, with a requirement for drivers to take and display a ticket, which contains their vehicle registration number. An additional ticket could then not be obtained, to prevent over-staying.
- 1.8.8 Unfortunately, despite this system there is still abuse of the short-stay parking time limits, as drivers have adopted the practice of entering a registration that is almost correct, then claiming that this was done in error. The Council took a strong enforcement line against this practice with the support of the West Malling Parking Review Steering Group, but has since lost appeals at the Traffic Penalty Tribunal Service.
- 1.8.9 This has resulted in the Council having the high costs of running a town centre car park with take & display machines, but with no income to enable recovery of the costs and no effective means of applying an appropriate management regime.

- 1.8.10 It is now felt that the most effective and practical way of managing the car park is by the introduction of a parking charge. Setting charges would allow more flexibility in the management of the car park, focussing on encouraging short stay and relatively quick turnover of spaces to optimise availability. Such an approach would also address the costs of running the car park. It is not the intention to introduce a charge for on-street parking in the High Street at this stage, but this may need to be reviewed in the future depending on operational experience.
- 1.8.11 The proposed parking charges for the High Street car park to operate Monday to Saturday, 8am to 6pm are shown in Table 6.

**TABLE 6**

<b>West Malling Short Stay</b>	
<b>Period</b>	<b>Proposed charge</b>
30 minutes	£0.30
1 hour	£0.60
2 hours	£1.20
3 hours	£1.80
Over 3 hours (See Note 1)	£5.00

Note 1: Whilst the car park is a short stay car park a number of existing businesses in the high street such as hairdressers have identified a need for a charge of over 3 hours. It is envisaged that take up will be low but will help these businesses.

- 1.8.12 Members of the West Malling Parking Steering Group have been advised of the proposed charges and their views will be available at the meeting.

## **1.9 Blue Bell Hill Car Park**

- 1.9.1 Blue Bell Hill car park is a commuter car park in the north of the Borough that is easily accessible and has good onward coach links towards London via the M2.
- 1.9.2 Blue Bell Hill car park is 'Park Mark' accredited and as such it offers high-quality parking with a good surface, lighting and CCTV.
- 1.9.3 Parking charges apply, Monday to Friday. The charges were originally set at a low introductory rate when the car park was opened in 2004, and has not been increased since.
- 1.9.4 The low charges were an incentive for commuters to use the car park rather than to park in nearby residential areas. However, since the establishment of the car

park there has still been some on-street commuter parking in nearby residential areas, and the Council has introduced on-street parking controls to deter this.

- 1.9.5 The costs of providing the car park significantly exceed the income from ticket sales and the car park has now become regularly used on Saturdays.
- 1.9.6 The proposed charges shown in Table 7 below are intended to recover the Council's costs of providing the car park.

**TABLE 7**

<b>Blue Bell Hill Car Park</b>		
	<b>Current Charge</b>	<b>Proposed charge</b>
Daily	£2.00	£2.50
Weekly	£7.00	£9.00
Monthly	£26	£32
Quarterly	£70	£85
6 Monthly	£125	£160
Annual	£220	£280

### **1.10 Borough Green West Road Car Park**

- 1.10.1 When the last parking review was carried out in Borough Green careful consideration was given to the operation of the Western Road car park and the setting of an appropriate charge that took into consideration the availability of free on-street parking nearby and the parking charges within the Borough Green Station car park, privately operated by Meteor. Demand for the car park is currently strong and warrants consideration of further management controls.,
- 1.10.2 Parking for up to 2 hours is currently free, but there is a requirement to "Take & Display" a ticket from the machines. The Council's Parking Team has become aware that some people are taking advantage of this and are repeatedly displaying a free ticket. For this reason and to promote a more frequent turnover of spaces to support the functioning of the village centre, it is proposed that an appropriate charge be introduced for the first 2 hour period.
- 1.10.3 The proposed changes to the Western Road car park are detailed below in Table 8.

**TABLE 8**

<b>Borough Green Western Road Car Park</b>		
	<b>Current Charge</b>	<b>Proposed charge</b>
Up to 2 hours	Free	£0.40
2 to 4 hours	£0.80	£0.90
4 to 6 hours	£1.30	£1.40
6 to 9 hours	£1.90	£2.00
All day	£5.00	£5.10

### **1.11 Residential Preferential Parking Scheme (Residents Permits)**

1.11.1 Residents permits across the Borough are currently set at £35 per year, and have not been increased since 2011. There is an exception to this for Borough Green, where the charge is currently £24 per year.

1.11.2 It is proposed that Residents Permits be increased to £40 per year, and this new charge be applied across the whole Borough.

1.11.3 The Parking Team has received a number of requests for restrictions to be placed on the number of permits that can be issued to each property. The purpose of the Scheme is to give priority parking to residents over non-residents, and it is therefore not the intention to consider limiting numbers of permits to residents. Consideration could, however, be given to introducing a tiered pricing structure for additional resident parking permits per household in the future, if Members felt this was worthy of investigation.

### **1.12 Business Permits and Dispensations**

1.12.1 The Council offers a variety of “business permits” and dispensations shown below in Table 9.

**TABLE 9**

<b>Business Permits &amp; Dispensations</b>		
<b>Permit type</b>	<b>Current charge</b>	<b>Proposed charge</b>



Business permit (for businesses located within a permit scheme)	£130	£150
Carers permit	£50	£50
<b>Dispensations</b>		
Property Maintenance	£100	£150
Property Maintenance (with yellow lines)	£100	£150
Tonbridge High Street (Banking)	£100	£150

1.12.2 Members will note that it is the intention to increase the costs of the permits/dispensations with the exception of Carers, to recognise the service they provide to vulnerable members of the community.

### **1.13 Visitor Permits**

1.13.1 The Council has a system of issuing Visitor Permits to holders of Residents permits to enable their visitors to park within the restricted area. The Visitor Permits effectively operate as one-day permits.

1.13.2 Visitor Permits currently cost £10 per sheet of 10 permits, and every permit holder is given a free sheet of 10 permits when they take out or renew their permit.

1.13.3 It is proposed that the charge for Visitor Permits be increased from £10 to £12 for 10 permits, and the offer of 10 free Visitor Permits for new applications and renewals be retained.

### **1.14 Leybourne and Haysden Country Park Car Parks**

1.14.1 Members will be aware that charging is in place for car parking at both of the Council's Country Parks. The last increase was applied in 2014 with charges rising from 70p to 80p for up to four hours and from £2.80 to £3.00 for over four hours.

1.14.2 In addition to the charges above, an annual season ticket can also be purchased which provides parking at both Country Parks. The season ticket was introduced in 2008 at an annual charge of £25 and has not been subject to any increase since then.

The existing charges, together with the proposed charges, are detailed below in Table 10.

**TABLE 10**

<b>Haysden/Leybourne Lakes Country Parks</b>		
<b>Period</b>	<b>Current Tariff</b>	<b>Proposed Tariff</b>
0-4 Hours	80p	1.00
4+ Hours	3.00	4.00
Annual Season Ticket	25.00	30.00

1.14.3 Members may be interested to note that the current charging structure in relation to Kent County Council's (KCC) Country Parks is:

- £1.50 to £2.00 (park dependent) flat rate Monday to Friday
- £2.00 to £3.00 (park dependent) flat rate weekend and Bank Holidays
- £40 season ticket (covers eight sites across Kent)

1.14.4 It can, therefore, be seen that in comparison to the charges applied by KCC, this Council's proposed charges continue to offer excellent value for money.

1.14.5 Members of the Park's Customer Panels have been advised of the proposed charges and their views will be available at the meeting.

### **1.15 Tonbridge On-Street Pay and Display**

1.15.1 The Council currently operates some very limited on-street pay and display parking in Tonbridge up to a maximum stay of 3 hours. The purpose of on-street pay and display is to provide relatively short stay parking that is convenient to customers of local businesses, with a regular turn-over of spaces.

1.15.2 All of the pay and display parking is located close to other parking facilities that offer longer parking opportunities. It is proposed that the current on-street pay and display charges be changed to reflect both the wider re-alignment of parking charges and also provide an incentive towards shorter stay parking. No proposals have been brought forward for extending on-street pay and display parking and this is an matter that could be reviewed further at a later date.

1.15.3 The proposed on-street pay and display parking charges are shown in Table 11 below.

**TABLE 11**

<b>On-Street Pay &amp; Display</b>		
	<b>Current Charge</b>	<b>Proposed charge</b>

Up to 30 minutes	£0.40	£0.50
Up to 1 hour	£1.00	£1.00
Up to 2 hours	£1.80	£2.00
Up to 3 hours	£2.50	£3.00

## 1.16 Charging Period

1.16.1 The current charging times within the Council's car parks do not extend beyond 6pm or apply on Sundays or Bank Holidays. Whilst initial consideration within this review has been given to the existing approach, any changes have significant implications including the impact on surrounding residential areas and the levels of resource for enforcement.

1.16.2 Taking these implications into account it is suggested that no changes be brought forward at the present time, but the issue be considered as a separate review in the future.

## 1.17 Other parking charges

1.17.1 This report has focussed on the Council's main car parks. There are a number of other smaller car parks owned and managed by the Council and it is the intention to review these over the coming months and report back to Members.

1.17.2 It is recommended that any parking charges not discussed within this report should remain unaltered at this time.

## 1.18 Legal Implications

1.18.1 The powers allowing the Borough Council to carry out parking management activity are contained in the Road Traffic Regulation Act 1984, supplemented by formal agreement with Kent County Council as the Local Highway Authority, in respect of its powers under the Traffic Management Act 2004. In particular, section 122 of the Road Traffic Regulation 1984 Act imposes a general duty on local authorities exercising functions under the Act to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of safe and adequate parking facilities on and off the highway.

1.18.2 Changes to parking charges should be made via an Amendment Orders to the Council's on and off-street parking Traffic Regulation Orders, using the procedures set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996.

1.18.3 Part 2 of The Civil Enforcement of Parking Contraventions (England) General (Amendment) Regulations 2015 introduced a statutory requirement for a 10 minute “grace” period to time limited parking, whether on-street or off-street, including Pay and Display, regardless of the intended duration of stay, effectively adding the facility to park for an additional 10 minutes to all parking periods.

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

1.19.1 This review has examined the complete range of current parking fees and charges within the context of a set of guiding principles, the cost of parking service to the Council and ongoing investment in the parking management service. It is also worth noting that around 900,000 tickets each year are, or have the potential to be, refunded as part of the dual ticketing arrangements in the Angel and Botany short-stay car parks in Tonbridge. It is anticipated that the recommendations outlined in this report will generate additional income of £354,000, net of VAT and refunds. This estimate is based on the assumption that current usage remains constant and that ticket sales remain uninfluenced by price increases and that there is a similar distribution of tickets in each pricing band. It is important to note that whilst the proposals will generate income there are also a number of areas of recurring and one-off expenditure costs.

1.19.2 A further review of resources associated with enforcement will be required, which will be the subject of a future report to the General Purpose Committee. There will be a need for significant capital investment in new ticket machines, back office parking systems, mobile technology and personal safety equipment for the CEOs. This capital investment is anticipated to be iro. £250,000.

## **1.20 Asset management**

1.20.1 It is worthy of note that many of the Council’s car parks represent a significant asset in terms of resale and for development. It is essential given the context of the Medium Term Financial Strategy that the Council seeks to ensure that the assets are managed in the most economically advantageous way and may in some cases include disposal of the asset.

## **1.21 Risk Assessment**

1.21.1 The estimated additional income is modelled on predicted future parking patterns and demand matching what currently takes place. It does not reflect any potential adverse customer reaction or the possibility of increased take up of the dual ticketing arrangement in Angel and Botany car parks.

## **1.22 Equality Impact Assessment**

1.22.1 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.

## **1.23 Policy Considerations**

1.23.1 Asset Management

1.23.2 Community

1.23.3 Customer Contact

## **1.24 Recommendations**

1.24.1 It is recommended to Cabinet that it **APPROVE** the following proposals with effect from 1<sup>st</sup> April 2016;

- 1) Introduce the schedule of charges for short and long stay parking in Tonbridge shown in Table 1.
- 2) Introduce the schedule of charges for parking in Lower Castle Fields car park shown in Table 2.
- 3) Adopt the schedules of Peak and Off-Peak Season ticket charges in Tonbridge shown in Table 3 and 4.
- 4) Introduce the schedules of charges for short and long stay parking in West Malling shown in Table 6.
- 5) Introduce the schedule of charges for Blue Bell Hill car park shown in Table 7.
- 6) Introduce the schedule of charges for parking in Borough Green Western Road car park shown in Table 8.
- 7) Increase the Residents permits to £40.
- 8) Introduce the schedule of charges for business permits and dispensation shown in Table 9.
- 9) Visitor permits to be increased to £12 for a book of 10 permits.
- 10) Introduce the schedule of charges for Haysden and Leybourne Lakes country parks shown in Table 10.
- 11) Introduce the schedule of charges for on-street pay & display parking in Tonbridge shown in Table 11.
- 12) Bring forward separate reviews to Members on Evening and Sunday charging, on existing car parking concessions and those car parks not addressed within this report.

Background papers:

contact: Andy Edwards

Nil

Kuntran Kumaralingam

Robert Styles

Director of Street Scene, Leisure & Technical Services

Sharon Shelton

Director of Finance & Transformation

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

Report of the Director of Planning, Housing and Environmental Health

#### Part 1- Public

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

#### 1 REVIEW OF PRE-APPLICATION PLANNING PROCEDURES AND CHARGING REGIME

##### Summary

This report provides a review of the procedures and practice adopted in providing advice and guidance in respect of planning matters, in particular assistance provided to those intending to submit planning applications. Importantly, the report also reviews the charges made for their service and recommends a new regime to reflect the costs and value of the advice provided.

##### 1.1 Introduction

- 1.1.1 The Local Government Act 2003 gives Local Planning Authorities powers to recover the costs of pre-application advice in recognition of the time officers spend researching information in order to provide professional and procedural advice to prospective developers or applicants.
- 1.1.2 As Members will appreciate, the provision of planning advice on behalf of the Local Planning Authority is an important component of the planning process that is designed to assist applicants and developers in framing their proposals. It is also helpful to the Council and our communities because it provides an opportunity to shape proposals at an early stage. It is now timely for our approach to be reviewed in the context of the changing planning process and the need to recover a greater proportion of our costs in providing the service.
- 1.1.3 In undertaking this review and in drafting the proposed updated pre-application procedure and setting a new charging structure, regard has been given to current legislation, guidance and budgetary considerations.
- 1.1.4 National guidance relating to pre-application advice has been in place for a number of years and the importance of providing it has been further emphasised within the National Planning Policy Framework (NPPF), published March 2012, which states in paragraphs 188-190:

*“Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-*

*application discussion enables better coordination between public and private resources and improved outcomes for the community.*

*Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they do offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community before submitting their applications.*

*The more issues that can be resolved at pre-application stage, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, proactive approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.”*

- 1.1.5 It is recognised that good quality pre-application advice is highly beneficial to the planning application process, but there is a significant cost in providing this. The use of a charging regime for pre-application advice is supported at a national level and is established practice with the majority of local planning authorities in England. The use of a charging regime means that some of the cost of such advice is borne by the person/organisation that is likely to benefit from a development rather than falling as a general cost to the council tax payer. It should also be remembered that the consequence of following sound advice and ultimately obtaining planning permission is often a significant increase in the value of land or property and the relatively modest costs associated with the advisory service should be seen in that context.

## **1.2 Review of the current pre-application process**

- 1.2.1 In Tonbridge and Malling, the Development Control Service has operated a fee-paying planning advice service since 2008. Guidance on the current services is available on the Council’s website and identifies circumstances where advice is available free of charge as follows:

- Householder proposals;
- Works to a listed building or in relation to conservation area consents;
- Works to trees;
- How to apply for a Lawful Development Certificate (LDC) to decide if planning permission is required;
- Planning matters relating to a planning enforcement investigation; and
- Issues related to the implementation of a planning permission.



1.2.2 Advice on any proposal that falls outside the criteria set out above is subject to a charge. Currently two types of charge are levied which do not reflect any varying level of complexity between cases, as follows:

- Written responses - £120 (including VAT)
- Meeting - £300 (including VAT)

1.2.3 In total, between 130 and 180 pre-application enquiries are received each month. The total number of pre-application enquiries responded to by the Development Control Service over the last three years, is as follows:

2015 – 1,603 (to the end of November 2015)

2014 – 2,067

2013 – 1,863

2012 – 1,752

1.2.4 An evidence gathering exercise was carried out in October and November 2015. This comprised detailed recording of the type of query, together with time spent by planning officers on assessment and providing a response. The percentage of officer time spent on different types of enquiries were as follows:

Householder: includes proposals to alter and extend individual houses and flats for residential purposes (includes listed buildings)	69%
--	-----

All Other: includes shop fronts, advertisements, change of use (not operational development), demolition in a conservation area, certificates of lawfulness	4%
---	----

Minor: includes 1-9 new dwellings, up to 999 sq.m. of office/industrial/retail floor space	17%
--	-----

Major: 10 and over new dwellings, 1,000 sq.m. and over of office/industrial/retail floor space	10%
--	-----

1.2.5 The above figure indicates that in the region of 70 per cent of officer time on pre-application advice is spent on householder enquiries, which are currently free of charge. The above figures do not show applicants returning with further questions or different options, as these are currently recorded under the original reference. Therefore, the actual number of enquiries overall is higher than the figures given above.

Turning to staff resources and costs, it is estimated that responding to pre-application enquiries amounts to the approximately the equivalent of two full time planning officer posts each year. The overall cost of providing the current pre-

application advice service, including officer time, management time and other expert officer time is estimated to be in the order of £100,000 per year. Although it is not good practice to single out this activity as entirely separate to the overall planning process, it does give an indication of the level of costs attached.

1.2.6 The pre-application fee income received over the last three years is as follows:

2014/15	£11,492
2013/14	£11,050
2012/13	£8,333

1.2.7 It will be appreciated, therefore, that on this outline analysis the income received by the Development Control Service for paid, pre-application advice has, over the last three years, been significantly below the actual cost of providing it. This provides one starting point for considering how we now move forward in setting future practice and charging.

### 1.3 Proposed pre-application protocol

- 1.3.1 It is important to note that when a potential applicant is considering whether to carry out new development and/or a new use, they will generate a number of costs along the way. These costs can include agent fees, architect fees, fees for surveys and specialist advice and so forth. These costs are considered to be a normal and acceptable part of the development process.
- 1.3.2 It is also important to appreciate that the planning application process and, by definition, pre-application advice, normally generates an increased value of the site or property. This increase in value benefits the landowner, but not necessarily the wider community. With this in mind, it seems fair and appropriate that the landowner should pay at least part of the initial cost for pre-application advice, rather than the cost being wholly borne by public funds.
- 1.3.3 In considering these matters previously, the Council has set charges at a relatively modest level in recognition that there is a degree of 'public' benefit in the overall pre-application process. However, with all these matters now in mind and the context of increasing focussing on service efficiency, it seems appropriate to critically review our charges.
- 1.3.4 Should the pre-application charging regime be extended to cover a wider range of proposals, it should also be noted that the potential applicant does not have to use this service as there are other options available, such as private professional planning experts, specialist publications or information on various websites.
- 1.3.5 **[Annex 1]** provides a summary of the different charging regimes for all the local planning authorities (LPAs) in Kent. It does not include Kent County Council, although they do also charge for pre-application advice on certain matters. A number of the LPAs use an hourly charging rate. However, this is, in itself, costly and time consuming to manage. Furthermore, it does not provide the certainty on

cost that the customer is normally seeking. The remaining LPAs used an average rate to provide the cost for a particular service. On large scale/strategic proposals the charging rates are more commonly on an hourly basis, with some LPAs offering the opportunity to negotiate the charges.

- 1.3.6 The majority of current pre-application enquiries are from householders. Some others relate to heritage matters and currently both categories are responded to free of charge. These enquiries are often time consuming and reflect a significant cost to the Development Control Service, but in general are highly valued by the prospective applicants. Consequently, it is proposed that charging at a relatively modest level is introduced.
- 1.3.7 Overall the approach now proposed is that the provision of pre-application advice should not normally be free and that the charging regime is extended across enquiries about all types of development. Free advice would only be given where the development relates to proposals for disabled access or to third parties affected by development proposals.
- 1.3.8 It is proposed that a new, comprehensive charging regime be introduced on a partial cost recovery basis. The details of the new pre-application protocol, together with the fee structure and pre-application form are set out in the attached documents, which would be published on the website:
- Protocol for providing pre-application advice **[Annex 2]**
  - Pre-application charging schedule 2016/17 **[Annex 3]**
- 1.3.9 In summary, the features of the new pre-application charging regime would comprise:
- A three option system which would allow a potential applicant to decide what level best suits their needs and budget. The options for the potential applicant would be to request written advice, request a meeting at the Council offices followed by written advice or to have a site meeting followed by written advice. The fees for each of these options are set out in the Pre-application charging schedule 2016/17. It should be noted that only one option would be available for large scale/strategic site pre-application enquiries due to their complex nature.
  - Five main categories are identified, which cover all the main types of pre-application enquiries; household development; minor development; medium development, major development and large scale/strategic development. The cost of pre-application advice in each category generally reflects the level of complexity and time involved in generating a response. The first two categories generate the same charges for each of the three options. However, householder applications have been separated due to the large volume and different submission requirements for information.

- The two exceptions, where pre-application fees would not be charged, have been identified; advice on proposals to provide or improve disabled access and advice to third parties affected by a development proposal.
- All enquiries would need to be submitted on a Pre-Application Advice Request Form. This is to ensure that all the correct information is available for the Planning Officer to do an assessment and respond quickly to the enquirer. The payment of the pre-application fee would be made on submission of the request. The objective is to provide high quality pre-application advice to the customer as quickly as possible.

1.3.10 The individual charges, set out in the Pre-Application Charging Schedule 2016/17 document, have been calculated based upon information contained within the planning database, service budget information (including salaries) and evidence from the study carried out in October/November 2015. The average hourly rate of £40 includes all costs relating to providing advice. It should be noted that pre-application advice is VAT chargeable and that this has been added to the total for each category. It is estimated that pre-application income would increase from the current 2015/16 projection of £12,000 to between £35,000 and £40,000 for 2016/17.

1.3.11 It is proposed that the new pre-application protocol and charging regime be introduced on 1 April 2016. Mindful that the change in practice and charging is quite significant, we will make efforts to give wide circulation of all the changes. The Development Control pages of the Council's website would be updated to reflect the changes summarised above. The updated website pages would provide clear guidance on how the pre-application advice service works at the Council. The website could also signpost useful links, in particular to the 'interactive houses' on the Planning Portal website, which helps customers to see whether they need planning permission or not. We would also draw the attention of regular agents and applicants to the changes.

1.3.12 Lastly, I would wish to reassure Members about an aspect of the planning service that I believe is held in high regard. That is, by and large, the service is seen as approachable and that importance is given to communication and generally working with others to achieve good standards of development. Nothing in these proposals should change that essential culture within the service. Importantly, what the new regime does do is to help us to sustain the level of service we have traditionally provided.

## **1.4 Legal Implications**

1.4.1 The Local Government Act 2003 provides the power for local authorities to charge for discretionary services (as defined in the Local Government Act 1999). Discretionary services are those services that an authority has the power but not a duty to provide. An authority may charge where the person who receives the service has agreed to its provision. The power to charge under this provision does

not apply where the power to provide the service in question already benefits from a charging power or is subject to an express prohibition from charging.

- 1.4.2 The Local Government Act 2003 places a duty on authorities to ensure that, taken one year with another, the income from charges for each kind of discretionary service does not exceed the costs of provision. An authority may set charges as it thinks fit, and may, in particular, charge only certain people for a service or charge different people different amounts.
- 1.4.3 Local authorities are required to have regard for any guidance that may be issued by the Secretary of State in terms of carrying out their functions under the 2003 Act. Section 93(7) of the Act provides that certain prohibitions in other legislation preventing authorities from raising money are specifically dis-applied in relation to the exercise of the charging power.
- 1.4.4 Local Planning Authorities therefore have powers to recover the costs of pre-application advice in recognition of the time officers have to spend researching information in order to provide answers to prospective developers or applicants.

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

- 1.5.1 This review has assessed the current pre-application process and charging regime for TMBC and also the type and level of service provided by other LPA's in Kent.
- 1.5.2 The current level of cost recovery for providing pre-application advice, projected to be £12,000 for 2015/16, is considerably below the in excess of £100,000 estimated cost for delivering this service. The proposed pre-application protocol and charging regime is likely to result in a drop overall in the number of enquiries received by the service. However, to introduce a more comprehensive level of cost recovery, in the region of £35,000-£40,000 in the first year, would ensure that this service could continue to be provided without compromising the statutory duties of Development Control.
- 1.5.3 A review of the new pre-application protocol and charging regime should be carried out after it has been in operation for a year. This will allow further evidence to be collected over the period to ensure the service provided is high quality and timely and to ensure that the fees charged are appropriate.

## **1.6 Risk Assessment**

- 1.6.1 The estimated additional income is modelled on current information held in the Planning Database, together with the findings of the study carried out in October/November. Therefore, the charges proposed are the best estimates for cost recovery based on the information we have to date. A review after one year of implementation will allow this to be refined, if necessary.

## 1.7 Equality Impact Assessment

1.7.1 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.

## 1.8 Recommendations

1.8.1 It is recommended to Cabinet to **APPROVE** the following proposals with effect from 1 April 2016:

- 1) Adopt the Protocol for providing Pre-application advice as attached at **[Annex 2]**;
- 2) Introduce the Pre-application Charging Schedule 2016/17 as attached at **[Annex 3]**; and

Background papers:

contact: Louise Reid

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health

Table of pre-application charging regimes for all Local Planning Authorities in Kent

All prices include VAT

	Others (including householders) Letter only	Others (including householders) Meeting and letter	Minors Letter only	Minors Meeting and letter	Majors Letter only	Majors Meeting and letter	Significant Majors Letter only	Significant Majors Meeting and letter	Planning history	Notes
Ashford	Householders free All Others £82	Householders Free All Others £436 per hour	£164	£436 per hour	Advice only given via meetings and follow up letter	£436 per hour	Advice only given via meetings and follow up letter	£436 per hour		New businesses, householders, trees, CoL and enforcement advice free.
Canterbury	Other including householder £60	Other including householder £240	£180	£420	£420	£1,260		£2,100 for first meeting and letter. Further pre-application work, including research at £50 per hour plus VAT		Planning briefs and master planning at cost recovery level of £50 per hour plus VAT
Dartford	Householders free All Others £144 per hour – follow up £72 per hour	Householders free All Others £252 per hour – follow up £126 per hour	£144 per hour – follow up £72 per hour per letter	£252 per hour – follow up £126 per hour per meeting/letter	£216 per hour – follow up £108 per hour per letter	£360 per hour – follow up £180 per hour per meeting/letter	£360 per hour – follow up £180 per hour per letter	£600 per hour – follow up £300 per hour meeting/letter		Householder, small businesses, listed buildings, trees, disabled access, parish councils all free
Dover	Other including householder £60 per hour for first hour then £30 per ½ hour thereafter. Listed buildings £180	Other including householder £60 per hour for first hour then £30 per ½ hour thereafter. Listed buildings £180 minimum	£60 per hour for first hour then £30 per ½ hour thereafter Listed buildings £180 minimum	£60 per hour for first hour then £30 per ½ hour thereafter Listed buildings £180 minimum charge		£500 or 1.5% of application fee, whichever is the greater for an hour meeting and written response				

	minimum charge	charge	charge							
Gravesham	Householders £55 All Others by meeting and letter only	£165 Meeting included if required	All Minors by meeting and letter only	£370 Meeting included if required	All Majors by meeting and letter only	£1,150 Meeting included if required				Vehicle cross-over confirmation letter £15. Simple PD, repairs to listed buildings and charities are free
Maidstone	Householder £38 All Others £126	£89 for an hour long meeting. Additional £126 for listed building, landscape, design advice	££126 (£63 for small commercial applications e.g. shop fronts, change of use.	£336 for an hour long meeting	£126	£336 for an hour long meeting				
Medway	Householder £68 (+ £43 for each additional site) All Others £67	Householder £68 (+ £43 for each additional site) All Others £197 (Meeting on site only £130)		£260 (Meeting on site only £130) (Meeting at council offices £130 plus officer rates)	£934.44	£1245 Hourly rates given for different officers attending				TPO advice £88 per hour Majors presentation to Members £665
Sevenoaks	householders free for first letter (then charged as all Others) All Others £75 per hour	Householder £50 for ½ hour meeting) All Others £100 per hour	£150 per hour	£250 per hour	Negotiable	Negotiable – includes £375 per hour for meetings	Negotiable	Negotiable – includes £375 per hour for meetings		
Shepway	No charge	No charge	No charge	No charge	No charge	No charge	No charge	No charge	No charge	Pre-application advice protocol clarifies level of service
Swale	Householder £25 All Others £50	Householders £50 All Others	£125	£250 per hour	£250	£500 per hour	£500	£1,000 per hour		Charities, voluntary groups, parish



		£100 per hour								councils and listed buildings free
Thanet	£50	£100	£150	£250	£250	£500		£500	£48.40	Charges for conditions as well as planning history
Tonbridge & Malling	Free	Free	£120	£300	£120	£300		£300	Free	Free for listed buildings, trees, LBC, enforcement, implementation
Tunbridge Wells	£25	£50 (20 minutes meeting)	£75	£150 (30 minutes meeting)	£250	£450 per hour (meeting time only)		£900 per hour (meeting time only)	From £25	

This page is intentionally left blank

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**PROTOCOL FOR PROVIDING PRE-APPLICATION ADVICE**

**December 2015**

We are able to provide you with advice and information if you are considering carrying out work or changing the use of buildings or land that may require planning permission or a related consent (e.g. advertisement consent or listed building consent). We would encourage you to seek advice before submitting a formal application in order to help speed up the development process and avoid unacceptable proposals.

The provision of such advice is time consuming and costly so we have formalised the procedures for handling this area of work. In most cases we charge a fee for providing advice under the provisions of the Local Government Act 2003. In most cases the charges are based on an assessment of the cost in terms of officer time for providing the pre application advice. The charging arrangements will help us to sustain and improve the service provided.

**The benefits of pre-application advice**

Pre-application advice will provide you with the following benefits:

- understanding how our policies will be applied to your proposal
- identifying the need for specialist input at an early stage e.g. for listed buildings, transportation, landscape, noise, health, contaminated land or archaeology
- assisting in the preparation of proposals for formal submission, which, if you follow our advice, should be handled more quickly and be more likely to result in a positive outcome
- helping to reduce the time that you or your professional advisors spend in working up the proposals
- indicating those proposals that are completely unacceptable, so saving you the cost of pursuing a formal application.

**Proposals requiring a fee**

A fee will be charged for pre-application advice on the following types of development:

1. Householder Development

For the purposes of pre-application charging this includes proposals to alter and extend individual houses and flats for residential purposes where the building affected is not a listed building. In cases where the house or flat is listed as being of architectural or historic interest then the charge will fall within the 'Minor Development' category (Category 2) rather than the Householder Development category (Category 1).

2. Minor Development

Minor developments include proposals for:

- New or replacement shop fronts

- New or replacement advertisements
- Alterations to a listed building
- Demolition of an unlisted building within a conservation area
- Proposals for Telecommunications Equipment
- Proposals for Air Conditioning / Ventilation Equipment
- Amendments to Previously Approved Schemes
- Discharge of conditions attached to permissions.

### 3. Medium development

Medium developments include proposals for 1 to 9 new residential units or the creation/change of use of up to 999 sq.m. floor space. In the case of proposals for 1 to 9 large new residential units where the floor space exceeds 999 sq.m. the charge will fall within the major or large scale/strategic development categories rather than the medium development category depending on the floor area.

### 4. Major development

Medium developments include proposals for 10 to 99 new residential units or the creation/change of use of up to 9,999 sq.m. floor space. In the case of proposals for 10 to 99 large new residential units where the floor space exceeds 9,999 sq.m. the charge will fall within the major or large scale/strategic development categories rather than the medium development category depending on the floor area.

### 5. Large/Strategic development

Large/strategic proposals include proposals for 100 or more new residential units or the creation/ change of use of 10,000 sq.m. or more floor space.

## **Proposals not requiring a fee**

There will be no charge for the following:

- Advice to third parties affected by development proposals
- Disabled access improvements.

## **How to make a request for pre-application advice that requires a fee**

### Householder and Minor Development Proposals

You should make your request for advice about householder or minor development proposals on a Pre-Application Advice Request Form, which is available on our website.

We will acknowledge receipt of your request and the fee.

Following receipt of the correct fee, the relevant information and, where requested, the site visit and/or meeting, we will endeavour to respond to your query within 21 days. Your request for pre-application advice will not be dealt with until we have received the fee and all of the necessary supporting information.

## Medium, Major and Large Scale/Strategic Development Proposals and for Planning Briefs/Master Plans

If your proposal falls within the definition of medium, major, large scale development proposals and planning briefs/master plans you should make your request for advice on a Pre-Application Advice Request Form, which is available to download on our website.

We will acknowledge receipt of your request and the fee.

Following receipt of the Pre-Application Advice Request Form and the correct fee, the planning case officer will contact you to organise an initial meeting.

Following receipt of the correct fee, the relevant information and, where requested, the site visit and/or meeting, we will endeavour to respond to your query normally within 21 days. Your request for pre-application advice will not be dealt with until we have received the fee and all of the necessary supporting information.

Where necessary you should amend the scheme in the light of the comments received and either:

- proceeds to a formal application; or
- if significant alterations to a scheme are required to make the proposal acceptable, then a further round of correspondence and meetings may be needed prior to a formal submission and a further fee may be required.

### **Planning Obligations.**

Major, large and complex applications often need to be accompanied by a legal agreement restricting or regulating the development or use of the land; for example, to secure planning benefits that will offset the impact of the new development on the locality. The completion of legal agreements often delays the issuing of planning permissions, as decision notices are not issued until such time as the legal agreement has been finalised. In some circumstances, planning conditions or unilateral undertakings may offer a satisfactory and speedier alternative to a legal agreement. In order to achieve central government targets negotiations should begin early in the planning process where cases require a legal agreement.

### **Community Involvement in the Planning Process**

For larger development proposals we strongly encourage developers to involve the local community before an application is submitted. This may take the form of a local exhibition, public meetings, circulation of leaflets, or the creation of a well-publicised dedicated website, including a facility to make comments. Community involvement should ideally be sought in two stages:

- Firstly, to seek views from interested groups on what may be appropriate for a site, so that these views can, wherever possible, be taken on board before the proposals are drawn up; and
- Secondly, to explain and seek further views on the evolving proposals before a planning application is submitted, so that changes can be made in response before submission, and also so that people are already aware of the background and the proposals when we later consult them on the application.

Wherever an applicant has arranged some community involvement prior to making a planning application, we request that a supporting report is submitted that sets out:

- what community involvement has been undertaken;
- what views have been expressed;
- what changes have been made by the applicant in response to the views expressed or, if no changes have been made, the report should explain why not.

For smaller development proposals, it is advisable to discuss your proposal with occupiers of adjacent properties likely to be affected by the proposal.

## **Notes**

### 1. Decision making

The final decision on applications is made by Council Members and in some cases by senior officers. It can only be taken after consultations with adjoining occupiers, those bodies which the Council has a statutory requirement to consult and other interested parties once we have received your application(s) and following detailed assessment of the facts of the case. You should therefore be aware that the Council's officers cannot give any guarantees about the decision that will be made on your application(s).

### Freedom of Information Act 2000

The confidentiality of information held by the Council cannot be guaranteed. We may receive requests under the Freedom of Information Act to disclose information about pre-application advice requests and the advice that we have provided. If you consider your inquiry to be confidential, please provide us with your reasons for this and the time period you consider that the information should remain confidential. Where we receive an application for disclosure, we will take into account requests for confidentiality when deciding whether to release the information.

## **INFORMATION TO BE PROVIDED APPLICANT IN INITIAL SUBMISSIONS TO COUNCIL**

### **Ownership**

Status of applicant as far as extent of ownership of land within application site

### **Existing site/building**

As much information as possible should be provided from the following list:

- Relevant planning history of the site (applications, appeals etc.)
- Details of existing lawful use;
- Schedule of existing floor space broken down by use;
- Whether the building is listed;
- Whether the site is within a conservation area;
- Whether the site is subject to other relevant designations

## **Proposal**

Description of proposal accompanied by a schedule of proposed floor space broken down by use;

Submissions should be accompanied by sketch drawings and/or photographs providing details of the proposals. Floor plans for each floor of the proposed building, together with sketch elevations indicating initial architectural approach and palette of materials. Drawings should also show any adjacent buildings to identify the context of the scheme.

## **Planning Obligations**

Issues likely to be subject to legal agreement.

This page is intentionally left blank



**Annex 3**

<b>Tonbridge and Malling Borough Council Pre-application charging schedule 2016/17</b>				
	<b>Type of Development</b>	<b>Fee for written advice only</b>	<b>Fee for a meeting at the Council Offices and letter</b>	<b>Fee for a meeting on site and letter</b>
1	Householder development	£48 £40 + VAT	£96 £80 + VAT	£144 £120 + VAT
2	Minor development	£48 £40 + VAT	£96 £80 + VAT	£144 £120 + VAT
3	Medium development	£72 £60 + VAT	£120 £100 + VAT	£168 £140 + VAT
4	Major development	£360 £300 + VAT	£540 £450 + VAT	£720 £600 + VAT
5	Large Scale/Strategic Development	Site visit/meeting and written response option only £1,080  £900 + VAT		
<b>Exemptions</b>				
<ul style="list-style-type: none"> <li>• Advice to third parties affected by development proposals</li> <li>• Disabled access</li> </ul>				
<b>Notes</b>				
<ul style="list-style-type: none"> <li>• The charges set out above relate to each separate query submitted to the Council</li> <li>• Further queries and variations raised following the issue of advice by the Council will be subject to a new fee</li> </ul>				

This page is intentionally left blank

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

#### 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 BUILDING CONTROL SHARED SERVICE**

#### **Summary**

**This report provides details of the progress that has been made since the start of the Building Control Partnership with Sevenoaks District Council (SDC) in October 2014.**

#### **1.1 Introduction and Background**

- 1.1.1 On the 1<sup>st</sup> October 2014 the Council and SDC entered into a joint working arrangement and formed the Building Control Partnership. Details of the new Partnership were provided to Members of this Advisory Board and the Finance, Property and Innovation Advisory Board in June and July respectively last year.
- 1.1.2 The Partnership aimed to build on the previous successful shared Management arrangements in building control, achieve efficiency savings for both Authorities and significantly increase the resilience for the Building Control Service by amalgamating two small teams into one larger team covering both authorities. It was also intended that the Partnership would enable both councils to fulfil their statutory obligations, meet agreed service standards and be more competitive in attracting additional fee earning work.

#### **1.2 Organisational Structure**

- 1.2.1 An important step was the identification of the appropriate level of staffing resource for the new arrangements. A process of staff consultations and recruitment took place resulting in the following structure which is formed by employees of both councils:

Building Control Manager	1.0
Team Leader	2.0
Senior BC Surveyor	1.0
Surveyor	5.0
Technical Admin Support	3.0
TOTAL Full Time Equivalent (FTE)	12.0

- 1.2.2 The previous FTE across both services was 15.5 and so efficiency savings were achieved. Happily both teams were holding vacancies and all existing surveyors were accommodated in the Partnership Teams, while the Council's administrative staff elected for redeployment elsewhere in the Council.
- 1.2.3 The administration hub is hosted at SDC with 'hot desk' functionality available for the area surveyors and the Building Control Manager at the Kings Hill council offices and at the office in Tonbridge Castle. It was considered important that a presence was retained at both council offices for customers' interaction and for operational purposes. To date this approach is working well and there have been numerous occasions when the surveyors have worked flexibly across both Council areas to accommodate peaks in demand, holidays or sickness.

### 1.3 Achievements

- 1.3.1 Working in Partnership has enabled the development of a number of initiatives and benefits, which will help deliver improved ways of working, further efficiencies and are described below:
- 1.3.2 **Delivery of Shared Idox Uniform System** - it was decided that as both council's used separate IDOX Uniform systems the priority would be to form a shared Uniform system and merge both datasets. This would enable the standardisation of letter templates, fee tables, inspection record keeping etc. The shared system would assist staff in accessing applications and cross boundary working rather than accessing two separate IT environments. Following a successful bid for £90,000 from Transformation Challenge Award funding we were able to progress this. Idox were employed and a working group formed, comprising representatives from Building Control and both IT Services, which resulted in the launch of the Shared System in November 2015.
- 1.3.3 **Enterprise Performance Management** - Idox Enterprise is a performance monitoring and management solution fully integrated with the BC Uniform database, as described above. Enterprise enables the monitoring of surveyors cases and the teams overall workload. The team leaders and manager are able to reallocate workload to deal with fluctuations and staff absence. Tasks have been set up to align with statutory and other key performance targets which track applications and warn in advance of impending target dates. Enterprise has been in place since November 2015 and process efficiencies are already being delivered e.g. tracking and payment of invalid applications and completion of site inspection records.
- 1.3.4 **Electronic Site Inspection Diary** - all site inspection requests are now booked through a centralised calendar system, which is maintained, by the administrative team and SDC contact centre. The calendar provides full access to all officer diaries and enables the efficient allocation of appointments.
- 1.3.5 **Mobile Working** - to realise the efficiencies of the Partnership the surveyor areas were reviewed and changed to reflect workload, density, transport links and office

locations. The surveying team now operates across council boundaries and officers have been provided with laptop computers and mobile devices to enable remote working.

- 1.3.6 **Electronic Correspondence** - a full review of each council's letter templates commenced in October 2014 with a view of creating one set of newly branded letters and certificates. The letters have, where appropriate, been updated to reflect a more customer friendly tone and simplified English. All new letter templates are set up to email directly to the applicant or agent and automatically save into the document management system. All approval and completion certificates have also been redesigned to visually represent a 'certificate'. This project is approximately 70 per cent complete and the ability to email all acknowledgement, application and decision letters will save significant time and create cost savings.
- 1.3.7 **LABC Partner Agents** - the BC Service is in competition with the private sector and the BC team has concentrated on retaining key agents whilst looking at opportunities to attract others and therefore increase revenue. In the past year the team have added a further two well respected local Architectural practices to bring a total of thirteen Agents who have entered into partnership agreement through the LABC scheme. This arrangement enables the BC team to carry out plan appraisals for any projects located in the country with site inspections being carried out by the local council. We will be in a position to quantify the contribution these partnerships have made to income by the end of the financial year.
- 1.3.8 **Performance Standards** - throughout the transitional period the BC teams have continued to provide a customer focused service by meeting same day inspection requests, plan checking and statutory decision dates. The Enterprise Performance Management System will allow the Manager to further develop this aspect.
- 1.3.9 **Dangerous Structures** - The Council is committed to responding to any dangerous structure within two hours of receipt. Having a larger pool of Surveyors available has enabled the Partnership to introduce a formal weekly rota and the ability to call upon others for assistance.

#### 1.4 **Proposed Service Improvements for the next 12 months**

- 1.4.1 Looking ahead there are a number of service improvements planned, these are:
- Online Application form fully integrated into Uniform and Payment system;
  - Online payment facility for inspection fee invoices;
  - Public Access for Approval and Completion certificates;
  - Review of BC Standard Charges; and
  - Marketing Strategy.

## 1.5 Legal Implications

1.5.1 None

## 1.6 Financial and Value for Money Considerations

- 1.6.1 Direct costs associated with the Partnership will be pooled and shared between the authorities on the basis of income generated by each authority in the 2013/14 Financial Year. This equates to a 45:55 split TMBC: SDC and would be adopted as a model for the first three years of the partnership.
- 1.6.2 The estimates being presented to the Finance, Innovation and Property Advisory Board on 13<sup>th</sup> January reflect the partnership agreement.
- 1.6.3 The Government requires local authority charges for building regulation work to cover the cost of the service only. Therefore the BC fees reflect the work involved on a project type basis. As neither council has updated the BC fee charges since 2013 the BC Service has decided to review the cost of providing the service based on the Fee Regulations and CIPFA guidance. The review will recalculate the chargeable officer hourly rate and will be used along with historic data on the number of site inspection for various project types to update the standard charges. The Partnership also offers individually determined charges and bespoke quotations. Its intended that the updated fee charges schedule will be in place for 1<sup>st</sup> April 2016.

## 1.7 Risk Assessment

- 1.7.1 The benefits on service delivery, resilience and flexibility have been strongly demonstrated over the last 12 months. The Partnership Agreement will minimise exposure to risk.

## 1.8 Equality Impact Assessment

- 1.8.1 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.

## 1.9 Recommendations

1.9.1 It is recommended that:

- 1) The progress with the shared service arrangements be **NOTED**;
- 2) The proposed Service improvements for 2016/17 are **ENDORSED**; and
- 3) The approach to reviewing fees and charges are **APPROVED**.

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:

Nil

contact:  
Joe Brooks,  
Building Control Manager  
Jane Heeley,  
Chief Environmental Health  
Officer

Steve Humphrey,  
Director, Planning, Housing and Environmental Health

This page is intentionally left blank



## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

#### 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**

**This report updates Members of the Board on the ongoing programme of Government Planning Reforms and seeks endorsement of a suggested response to a Department for Communities and Local Government (DCLG) consultation on proposed changes to national planning policy published in December.**

#### **1.1 Introduction**

1.1.1 Since the last update to the Board in September there have been a significant number of proposals for further reforms to the planning system including the Housing and Planning Bill, which is summarised in this report for information. In addition, responses have been sought by the DCLG to a consultation on proposed changes to national planning policy for which the deadline is the 25<sup>th</sup> January. **[ANNEX 1]** to this report sets out the 22 questions with proposed responses for endorsement.

#### **1.2 A Summary of Recent Planning Reforms**

##### **1.2.1 The Housing and Planning Bill**

1.2.2 At the time of writing, the Housing and Planning Bill (previously described as the Housing Bill in the Queen's Speech in May 2015) had reached the Committee stage in the House of Commons. The Bill contains a number of significant legislative changes for the planning system including:

##### **1.2.3 Planning Permission in Principle (PPIP)**

1.2.4 PPIP is a new form of automatic consent intended to offer developers more certainty. The Government proposes that PPIP be granted in one of two ways, the first is on adoption of a qualifying document that allocates specified kinds of sites, the second route is by application from a developer to the Local Planning Authority (effectively an outline planning consent).

- 1.2.5 In future, Local or Neighbourhood Plans or new Brownfield Registers (also proposed in the Bill) may have land allocations, which effectively already have outline planning permission (initially only for housing, but other uses may be added). Detailed matters would be addressed as part of a 'Technical Details Consent' and proposals may still be refused in the light of these, but the principle of development would be established.
- 1.2.6 Register of Brownfield Land
- 1.2.7 The Bill introduces a new requirement on Local Planning Authorities to compile and keep up to date a new Brownfield Register of previously developed land suitable for housing. The Secretary of State will set out criteria for including land on the Register (for example, sites should have a reasonable expectation for delivering 5 or more dwellings in the near future) and national and local planning policies will also have to be taken into consideration, so if, for example, a site is designated in a Local Plan for employment uses, it would not have to be included on the Register as being suitable for housing.
- 1.2.8 Starter Homes
- 1.2.9 Two new duties are proposed for local authorities in the Bill specifically in relation to Starter Homes, the government initiative whereby new-build houses will be available to first-time buyers under the age of 40 at a discount from the market rate. The first is a general duty to promote the supply of Starter Homes when planning functions are being carried out - for example, when preparing local plans and determining applications - and the second is a specific duty in relation to decisions on planning applications.
- 1.2.10 The specific duty will be a requirement to ensure that Starter Homes are delivered "on all reasonably sized sites", the Government says. Secondary legislation will set out the percentage of Starter Homes that will be required on different sizes of site and in different areas. Local Authorities will be able to exercise discretion where it is clear that the requirement would make sites unviable. If a council is failing to comply with its Starter Homes duties and a policy in its Local Plan is incompatible with these duties, the Secretary of State may prevent the application of that policy when certain planning decisions are taken.
- 1.2.11 Enhanced powers for the Secretary of State to intervene in plan-making and examinations
- 1.2.12 The Government argues that the Secretary of State's current powers of intervention are unhelpful because they only allow plan-making to be taken over in its entirety. Instead, it wants to enable "more targeted and proportionate intervention".
- 1.2.13 It is proposed that the Secretary of State will, in future, be able to instruct a Local Planning Authority to undertake the following specific tasks:

- Prepare or revise a Local Plan;
- Submit the Plan to independent examination;
- Publish the recommendations of the inspector; and consider whether or not to adopt.

1.2.14 The Secretary of State will also be able to:

- Direct that a Plan is submitted to him or her for approval;
- Set out what is to happen following an intervention; and
- Issue a "holding direction" to a Local Planning Authority, preventing it taking any step in connection with the adoption of a Plan while the Secretary of State decides whether or not to intervene.

1.2.15 This expansion of ministerial powers will also extend to the examination process. Under the Bill, the Secretary of State will be able to:

- Direct inspectors to suspend the examination;
- Consider specified matters; hear from specified persons; or
- Take other, as yet unspecified, procedural steps.

1.2.16 Enhanced powers for the Secretary of State to intervene in the neighbourhood plan process

1.2.17 As with Local Plans, the Bill enhances the role of the Secretary of State in neighbourhood planning, paving the way for a range of new powers.

1.2.18 In relation to applications to delineate a neighbourhood area, the Secretary of State will be able to order local authorities to designate the entire area applied for if the application fulfils certain criteria or has not been determined within a prescribed period, subject to specific exceptions. This is an alteration to existing law, under which local authorities only have to designate "at least some of the area applied for", and will enable subsequent regulations to introduce automatic designations for neighbourhood area applications in certain circumstances.

1.2.19 The Secretary of State will also be able to set time limits for local authorities to decide whether to hold a neighbourhood plan referendum, and to set a date by which a local authority must make a neighbourhood plan that has been approved at referendum, except where the council thinks this would breach international obligations or rights. Currently, local authorities only have to do this "as soon as reasonably practicable after the referendum is held".

1.2.20 Extension of areas of poor performance

1.2.21 Under the Bill, developers will be able to submit planning applications for non-major developments to the Planning Inspectorate in cases where the local authority has a track record of very poor performance in the speed or quality of its decision-making. Currently, local authorities may be designated for poor performance in relation to major developments only.

1.2.22 Information about financial benefits

1.2.23 A new duty will be placed on local authorities to set out publicly the potential financial benefits of certain development proposals when considering whether to grant planning permission. Under this measure, officers' reports on non-delegated applications will be required to include a list of financial benefits that are likely to be obtained by the local authority as a result of the proposed development if it is carried out, "so far as is reasonably possible".

1.2.24 A financial benefit will have to be recorded regardless of whether it is material to an authority's decision on a planning application, but the officer will need to indicate their opinion as to whether the benefit is material or not.

1.2.25 Nationally Significant Infrastructure Projects (NSIPs)

1.2.26 Housing schemes are currently excluded from consideration in NSIP applications, but the Bill will enable development consent for homes to be granted under this regime, provided they are linked in some way to a qualifying infrastructure project. Further guidance will set out details of this provision, but the Government states that it will include housing that is "functionally linked" to the infrastructure project, such as homes required for workers during the construction phase of such a project or key workers during operation. It will also apply where there is no functional link but there is a "close geographical link" between the housing and infrastructure project. Developers of such projects will still have the option of applying for the housing element of the scheme via the conventional planning application route.

1.2.27 Self-build and custom housebuilding

1.2.28 The Bill introduces a new duty on local authorities to grant planning permission for serviced plots sufficient to meet the demand for self-build and custom housebuilding in their areas. This demand will be evidenced by the number of people on the registers that are to be created and maintained by local authorities under the Self-Build and Custom Housebuilding Act 2015.

1.2.29 Assessment of housing needs revised.

1.2.30 The Bill removes the duty on local authorities to assess the accommodation needs of Gypsies and Travellers in their area as a distinct category. Instead, it instructs

local authorities to consider the needs of all people residing in or resorting to their area regardless of status.

### 1.2.31 **General Observations on the Bill**

1.2.32 The general thrust of the reforms proposed in the Housing and Planning Bill are aimed at increasing the delivery of housing by reducing planning requirements and controls. There are additional proposals to encourage home ownership through the delivery of starter homes and further measures designed to speed up the Local plan and neighbourhood plan making processes. As is often the case with emerging legislation, much of the detail will be reserved for accompanying regulations, planning guidance and Ministerial statements, but the recently launched consultation, which is the subject of the rest of this report, provides some indication of what that detail might look like.

1.2.33 At the heart of the Government's reform agenda is the objective to increase the supply of housing and in particular 'affordable' home ownership for the under 40s through the starter homes initiative. The relentless reform agenda suggests that the planning system is still seen as part of the problem rather than the solution as evidenced by the continuing relaxation of controls and the proposals to speed up the process.

1.2.34 Ironically the reforms are not helping with the plan-making process as the constant changes have to be carefully considered and taken on board. The Planning magazine has reported that the Bill represents '*..possibly the most radical and wide-ranging piece of planning legislation for a generation*'. In contrast paragraph 58 of the consultation on proposed changes to national planning policy states:

*'We do not intend that these policy proposals should slow down the preparation of existing Local Plans.'*

### 1.2.35 **Consultation on Proposed Changes to National Planning Policy**

1.2.36 The Government published a consultation document on the 7<sup>th</sup> December with responses sought by 25<sup>th</sup> January 2016. The proposals are summarised below and the suggested responses can be found at **[ANNEX 1]**.

1.2.37 Views are invited to the proposed changes to the following areas of national planning policy:

- The definition of affordable housing;
- Making better use of land around commuter hubs by increasing densities;
- Supporting sustainable new settlements, development on brownfield and small sites through Local Plans; and

- Supporting the delivery of starter homes.

#### 1.2.38 Changes to the definition of affordable housing

1.2.39 The current definition of affordable housing for planning purposes is set out in **[ANNEX 2]** to the National Planning Policy Framework and includes social rented, affordable rented and intermediate housing for sale (including shared equity and shared ownership models), provided to eligible households whose needs are not met by the market. The definition includes a requirement that the housing should remain affordable or for the subsidy to be recycled for alternative affordable housing provision.

1.2.40 The Government wishes to change the definition so that it encompasses a fuller range of products that can support people to access home ownership. The definition would still include options for rent, but some products would no longer be subject to in perpetuity restrictions or have recycled subsidy. This effectively paves the way to include starter homes as part of the definition of affordable housing (see section 1.2.8 above). The provision of Starter Homes will very likely be to the detriment of the supply of Affordable Rented and Shared Ownership homes. It is unclear to what degree Starter Homes can address our most urgent housing need, and they are absent as a tenure from our SHMA.

1.2.41 Views are sought on proposed transitional arrangements to review existing and introduce new policy to reflect the changes to the affordable housing definition. Six to twelve months is suggested.

#### 1.2.42 Increasing residential density around commuter hubs.

1.2.43 Local Planning Authorities would be expected in future to require higher densities around commuter hubs where feasible. No minimum density is proposed – that would be for the Local Planning Authority to determine, although in assessing how many extra homes could be delivered in this way the Government has looked at increasing average densities around existing hubs from 34 dwellings per hectare to 40. Commuter hubs are described as a public transport interchange and has or is likely to have a frequent service (at least every 15 minutes during normal commuting hours). This would include Tonbridge for example.

#### 1.2.44 Supporting new settlements, development on brownfield and small sites through Local Plans

1.2.45 Proposals under this heading include strengthening national planning policy to provide a more supportive approach for new settlements within Local Plans (i.e. new, larger scale developments or urban extensions to meet housing needs).

1.2.46 Amendments to national planning policy are also proposed to support the measures emerging in the Housing and Planning Bill to prioritise the use of brownfield land in meeting future housing needs. This would in effect be a

presumption in favour of using brownfield land for housing, unless there are overriding conflicts with the Local Plan or national planning policy.

- 1.2.47 This presumption in favour would be extended to small sites of less than 10 dwellings provided that they are within existing settlement boundaries and well designed. Garden developments would not be included in this presumption. Sites adjacent to settlement boundaries would also be carefully considered and supported if they are sustainable.
- 1.2.48 Ensuring housing is delivered on land allocated in Local Plans
- 1.2.49 This proposal is aimed at improving delivery of sites already allocated in Local Plans. A new housing delivery test is proposed, which would measure the number of new homes actually delivered against Local Plan targets over a two year period to overcome peaks and troughs. If a pattern of significant under delivery is identified over a sustained period action would need to be taken to address this, possibly in the form of identifying a range of additional, sustainable sites, possibly including new settlements as proposed in 1.2.40 above.
- 1.2.50 Supporting the delivery of starter homes
- 1.2.51 A range of proposed changes are suggested to promote the delivery of starter homes. These include amending paragraph 22 of the NPPF, which seeks to ensure that employment land is not safeguarded unless there is a reasonable expectation of it coming forward for those uses over the plan period. The amendment would have the effect of requiring that underused or unviable employment land be released for starter homes unless there is significant and compelling evidence to justify why such land should be retained for employment use.
- 1.2.52 One approach that the Government is considering is a policy with a clear limit on the length of time that unused commercial or employment land should be protected (3 years is proposed) and there is not significant and compelling evidence of market interest for it coming forward within a two year timeframe.
- 1.2.53 The current exception site policy to release land specifically for starter homes on unviable or underused commercial or industrial brownfield land not currently allocated for housing, is proposed to be extended to include land previously in use for retail, leisure and non-residential institutional uses. The exception site policy will also be amended to make it clearer that planning applications for starter homes will only be rejected if there are overriding design, infrastructure and local environmental considerations that cannot be mitigated.
- 1.2.54 Further changes are proposed to encourage starter homes within mixed used commercial developments and rural areas. The former would apply to town centre sites and the latter to rural settlements via the existing rural exceptions site policy.

1.2.55 Further changes to national planning policy are proposed to encourage starter homes in Green Belt areas. This would apply to neighbourhood plans for communities located in the Green Belt and also brownfield land located in the Green Belt.

1.2.56 It is proposed that neighbourhood plans would be able to allocate small scale sites in the Green Belt specifically for starter homes to increase affordable home ownership opportunities to young people and young families. Further changes are also proposed to provide more flexibility and enable suitable, sensitively designed redevelopment for starter homes to come forward on brownfield sites in the Green Belt where there is no substantial harm to openness.

### 1.2.57 **General Observations**

1.2.58 The focus on increasing opportunities for lower cost home ownership through redefining affordable housing, promoting starter homes and (through the Welfare Bill) extending the Right to Buy could have important implications for the majority of those in housing need as only a relatively small proportion will be able to access the 80 per cent of market value/rent models and the Right to Buy will erode the social rented housing stock at the other end of the scale. Local Authorities' ability to address those in housing need will also be compromised if the emphasis in future is on the delivery of starter homes, which currently have no proposed eligibility requirements to prove a local connection. This means that there is a risk that future 'affordable' housing built as starter homes in T&M does not address local housing needs.

1.2.59 The relaxation of planning controls and the reduction of the ability of Local Planning Authorities to secure developer contributions for infrastructure, for example, by extending permitted development rights and exemptions for starter homes, could also have adverse impacts on existing communities.

1.2.60 The ability for Local Plans to identify and safeguard land for employment uses in future may also be diminished as a result of these proposals.

## 1.3 **Conclusions**

1.3.1 This report has summarised the main planning reforms that have been proposed since the last meeting of the Board and made some general observations. **[ANNEX 1]** sets out more detailed responses to the questions posed by the current consultation for approval.

## 1.4 **Legal Implications**

1.4.1 There are no direct legal implications arising from this report.



## 1.5 Financial and Value for Money Considerations

- 1.5.1 There are no direct financial or value for money implications arising from this report although once implemented some of the proposed reforms will have resource implications.

## 1.6 Risk Assessment

- 1.6.1 Failure to respond to the consultation carries the risk of not expressing the views of the Council and potentially influencing the outcomes.

## 1.7 Equality Impact Assessment

- 1.7.1 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 as this is a response to a Government consultation rather than implementing the changes.

## 1.8 Recommendations

- 1.8.1 That the content of the report be **NOTED** and that **[Annex 1]** be **ENDORSED** as this Council's response to the DCLG's consultation on proposed changes to national planning policy.

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

Background papers:

Nil

contact: Ian Bailey  
Planning Policy Manager

Steve Humphrey

Director of Housing, Planning and Environmental Health Services

This page is intentionally left blank

### DCLG Consultation on Proposed Changes to National Planning Policy - Summary of Questions and Responses

#### a) Affordable Housing

Q1. Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost home ownership options?

**Response:** The proposal to broaden the definition of affordable housing options to include more lower cost home ownership models such as starter homes is of no concern in itself, but it should be recognised that this product will only be available to a limited number of those meeting the criteria and finding themselves at the top end of those in affordable housing need.

If Local Planning Authorities are to have new duties in respect of delivering starter homes and meet new requirements for a proportion of starter homes on qualifying sites, while simultaneously losing the ability to negotiate for affordable housing models that meet identified needs this new affordable housing stock may have to be offered to buyers from further afield. This would have the effect of increasing objectively assessed housing needs by encouraging inward migration, particularly in areas close to London.

The removal of the requirement to retain affordability or recycle the subsidy is of concern as this form of affordable housing will only ever be temporary, in the case of starter homes, for 5 years.

Q2. Do you have any views on the implications of the proposed change to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

**Response:** Of the protected characteristics listed age and disability may be adversely affected by the proposed changes. Those first time buyers over 40 years of age will not be able to access the proposed starter homes and those with disabilities relying on benefits may find themselves unable to access the low cost ownership housing that the changes seek to promote and find themselves struggling to find other affordable housing such as social rented and shared ownership.

#### b) Increasing residential density around commuter hubs

Q3. Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

**Response:** The definition seems reasonable, however the policy that determines in what circumstances higher densities will be acceptable and the level of local flexibility in interpreting the policy will be key to the success of this initiative.

Q4. Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

**Response:** The policy would benefit from the addition of more criteria to determine which hubs can sustain higher densities of development to address issues such as adequate parking facilities, air quality management and sensitive design for hubs located in historic centres.

Q5. Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

**Response:** Agreed. This should be for Local Planning Authorities to consider through Local Plans with community engagement.

### **c) Supporting new settlements, development on brownfield land and small sites, and delivery of housing agrees in Local Plans**

Q6. Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

**Response:** Current policy already provides the facility for Local Planning Authorities to consider planning for new settlements and urban extensions as part of their Local Plans or as Area Action Plans so it is unclear what is meant by introducing a more supportive approach for new settlements.

The best policy for ensuring housing targets are met consistently is to include a range of different sized sites in the land allocations of the Local Plan. Over reliance on one or even a few large sites or new settlements increases the risk of under delivery since no matter how large a new settlement may be when completed, the number of units being delivered on a yearly basis will be more conservative and usually measured in hundreds rather than thousands.

They can usefully contribute to an overall housing supply, but a broader portfolio of sites provides more reliable delivery over time.

Q7. Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impacts that we should take into account?

**Response:** Local Planning Authorities already prioritise previously developed land for new development over green field and the SHLAA process should identify those brownfield sites that are suitable for housing. By prioritising brownfield land for housing one unintended impact may be to increase the hope value of such sites meaning that the potential to develop such sites for other uses might be diminished.

There is also the risk that such a policy will represent an incentive for landowners not to market such sites so that a case may be more easily made for unviability or underuse.

Q8. Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of the local planning authorities' five-year land supply?

**Response:** The proposed changes to national policy would effectively be introducing a presumption in favour of residential development up to 10 units on sites within the confines of existing settlements or immediately adjacent, but not extending this to sites comprising residential gardens.

Currently such proposals are dealt with on a case by case basis and this enables local policy considerations and distinctiveness to be taken into account. The presumption in favour of residential development would make the retention of any non-residential uses within settlements more challenging. This could have the unintended effect of removing local services from rural communities as redevelopment for housing offer greater returns.

It would also put pressure on all Local Planning Authorities to review settlement boundaries since the presumption in favour of small scale developments adjacent to the boundary would generate a lot of interest. There is no discussion of how this might work in Green Belt areas. Presumably, Green Belt policy would take precedence, although Q19 seeks views on an exception in respect of neighbourhood plan allocations for starter homes.

Any increases in the five year supply calculations would have to be in the form of an adjustment to the windfall allowance, since sites of 5 units or less are not included in SHLAAs. Such a policy change is likely to generate a number of new applications and windfalls initially, but the number of such sites will diminish over time.

Further guidance on calculating windfall allowances to take these factors into account would be welcomed.

Q9. Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why?

**Response:** Sites under 5 units are not included in SHLAAs so it would be more consistent to use this threshold.

Q10. Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

**Response:** If the intention is to amend national planning policy to introduce a presumption in favour then it seems unnecessary (and inconsistent with the rest of the NPPF) to reiterate this in the form of a local policy.

Q11. We would welcome your views on how best to implement the housing delivery test, and in particular:

- What do you consider should be the baseline against which to monitor delivery of new housing?
- What should constitute significant under-delivery, and over what time period?
- What steps do you think should be taken in response to significant under-delivery?
- How do you see this approach working when the housing policies in the Local Plan are not up-to-date?

**Response:** Annual Monitoring Reports already include the information necessary to compare historically what the Local Planning Authority expected to be delivered and what was actually recorded so this seems an unnecessary additional burden on Local Plan teams. The Government could simply amend the guidance for preparing AMRs to include this.

If such a requirement were to be introduced the time period should not be an arbitrary 2 years, but taken over a longer average to better reflect economic or development cycles and certainly no shorter than 5 years. After the Global economic recession in 2007/8 housing delivery took much longer than 2 years to recover and no intervention by Local Planning Authorities would have been able to change that.

Simply making even more sites available through Local Plans will not be sufficient to improve under performance in housing delivery where there is a healthy pipeline of planning permissions and local plan allocations. In such cases the Government should look to the housebuilding sector for answers, not the planning system.

Q12. What would be the impact of a housing delivery test on development activity?

**Response:** Negligible.

#### **d) Supporting delivery of starter homes**

Q13. What evidence would you suggest could be used to justify retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

**Response:** Local Plan evidence in the form of Employment Land Reviews and Economic Futures Assessments already have to identify objectively assessed needs for employment land and identify sites that have a reasonable expectation of being developed for those uses in accordance with paragraph 22 of the NPPF. The proposed changes to national planning policy together with other planning reforms such as extending permitted development rights will make the task of safeguarding employment land in Local Plans more challenging. This will be particularly so in areas where the differential between residential and employment land values are so high, such as the south east.

The proposed 3 year time limit that employment land should be protected if unused is too short. As noted in response to Q11, the time period should at least reflect

economic or development cycles and be a minimum of 5 years, which is also when Local Plans should be reviewed and a view taken on whether sites are likely to be developed or not.

Q14. Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

**Response:** This would make sense given that the location of such sites is more likely to be in areas that are better suited to residential use.

However, there is a danger that the number of sites coming forward for starter homes will exceed local demand leading to in migration and potentially exacerbating local housing needs as a result.

There is also a risk that sites for other uses including infrastructure will diminish or become unviable.

Q15. Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

**Response:** Greater clarity in how the policy will work in practice would be welcomed. In terms of strengthening the policy see response to Q14 re managing the amount of starter homes.

Q16. Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

**Response:** If there is a demonstrable need for starter homes as identified through SHMAs then this is a reasonable expectation. If there is not, the same cautionary note in respect of Q14 and 16 applies here.

Q17. Should rural exception sites be used to deliver starter homes in rural areas? If so, should local planning authorities have the flexibility to require local connection tests?

**Response:** See response to Q16 above. Local connectivity would help to meet the aspirations of such communities to increase local affordable housing options.

Q18. Are there any other policy approaches to delivering starter homes in rural areas that you would support?

**Response:** While the starter homes initiative will provide additional options for lower cost ownership in rural areas, they should form part of a wider portfolio of affordable housing options in order to meet local needs.

Q19. Should local communities have the opportunity to allocate sites for small scale starter home developments in their Green Belt through neighbourhood plans?

**Response:** National Policy states that Green Belt boundaries should only be amended at the time a Local Plan is prepared and then only if it can be demonstrated that such an amendment is justified by balancing other policy objectives. This proposal would require consequential amendments to national Green Belt policy and the relationship between Local and neighbourhood plans.

Q20. Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

**Response:** Further clarification of the interpretation of Green Belt policy in this respect would be welcomed.

#### **e) Transitional arrangements**

Q21. We would welcome your views on our proposed transitional arrangements.

**Response:** The proposed 6-12 months transitional period to allow for partial reviews of Local Plans seems very short taking into consideration the need for a probable review of SHMAs to take account of the change in affordable housing definition. It is also not clear how the transitional period would apply to Local Plans in preparation.

Some of the other proposed changes will also require revisiting evidence and policy provisions. This is not conducive to Local Planning Authorities preparing Local Plans by 2017 contrary to paragraph 58 of the consultation document that states: 'We do not intend that these policy proposals should slow down the preparation of existing Local Plans.'

#### **f) General questions**

Q22. What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

**Response:** Some of the assumptions are based on scaling up data from one region to a national average (West Midlands in respect of greenfield land allocated for employment use – Para.39) while others are based on quite outdated sources such as the brownfield land estimates from the 2010 NLUD (Para 54). These may represent an overestimate of the potential for additional housing. Local Authority monitoring sources may offer a more accurate representations.

Q23. Have you any other views on the implications of our proposed changes to national planning policy on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

**Response:** See Response to Q2.





Department for  
Communities and  
Local Government

Local Authority Leaders  
Chief Planning Officers  
Local Authorities in England

**Brandon Lewis MP**

*Minister of State for Housing and Planning*

**Department for Communities and Local  
Government**

4th Floor, Fry Building  
2 Marsham Street  
London SW 1P 4DF

Tel: 0303 444 3430

Fax: 0303 444 3986

E-Mail: [brandon.lewis@communities.gsi.gov.uk](mailto:brandon.lewis@communities.gsi.gov.uk)

[www.gov.uk/dclg](http://www.gov.uk/dclg)

9<sup>th</sup> November 2015

### **Impact of social rent changes on the delivery of affordable housing**

As part of its ambitions to continue to significantly boost housing supply and increase home ownership, the Government is committed to delivering 275,000 extra affordable homes by 2020. Over £1 billion from the existing Affordable Housing Programme has already been allocated to deliver such schemes.

Following feedback by key partners it is clear that housing associations are reviewing their existing financial commitments following the Budget 2015 announcement of reductions in social rents in the four years from 2016-17. As a result some approved or emerging schemes where housing associations are engaged with house builders through Section 106 agreements are not being built out at the anticipated rate. Delay risks planned homes not coming forward and the ability of councils being able to demonstrate a five-year supply of deliverable housing land.

Section 106 agreements may of course be renegotiated at any time by mutual consent. Developers have already or will be approaching councils to renegotiate Section 106 Agreements to make adjustments to planned schemes, including the type of affordable housing provided. Planning guidance is clear that local planning authorities should be flexible in their requirements, taking into account specific site circumstances and changing circumstances.

Developers are already entitled to apply to modify any obligation over five years old. They are also able to apply to revise the affordable housing element of any Section 106 planning obligation if they can evidence that the affordable housing element is making the scheme unviable and is stalling development.

We would urge planning authorities to respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability. Where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is our view that this is unlikely to justify reopening viability by either side. We would ask local authorities to expedite such renegotiations so they can be dealt with in a timely manner, and avoid action which might result in unnecessary delay. For example, it would probably not be necessary in all circumstances to take a revised obligation back to planning committee for approval.

Should there be a need to reduce the overall amount of affordable housing, we strongly encourage local authorities to seek the minimum amount of viability information necessary, for example only that information which compares the financial position immediately prior to the Budget to the current position to justify the requested change.

The Government attaches great importance to the effective and flexible negotiation of Section 106 planning obligations, including on affordable housing, and intends to introduce a dispute resolution mechanism to help speed up Section 106 negotiations. We would also encourage flexible arrangements in the original agreement (for example through cascade mechanisms) so that it allows the delivery of alternative forms of affordable housing if this becomes necessary, and will produce guidance on this shortly.

We will be contacting local authorities over the next few weeks to understand the extent to which they are being approached to renegotiate Section 106 Agreements, and what action authorities are taking.

A handwritten signature in black ink, appearing to read 'Brandon Lewis', with a long horizontal flourish extending to the right.

**BRANDON LEWIS MP**

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

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

#### Part 1- Public

#### Matters for Information

### 1 LOCAL PLAN PROGRAMME AND PROGRESS

This report provides an update on Local Plan progress including the assessments of the sites submitted as part of the Call for Sites exercise, the programme for preparing the Plan and Duty to Cooperate issues.

#### 1.1 Local Plan Progress

1.1.1 Since the last meeting of the Board in September, significant progress has been made in meeting with external consultees and infrastructure providers as part of the technical assessments of the sites submitted under the Call for Sites exercise, which closed on the 1<sup>st</sup> September.

1.1.2 Members will recall that the purpose of these assessments is to confirm whether the sites that have been proposed for meeting future needs over the plan period are suitable, available and achievable in accordance with National Planning Practice Guidance (NPPG), which can be summarised as follows:

#### 1.1.3 Suitability

1.1.4 The suitability assessment involves considering the site and the uses proposed or alternatively any other uses that the site could deliver. The assessment is guided by local development plan policies (existing and emerging) and National policy.

1.1.5 Other relevant factors in determining a site's suitability include:

- Physical limitations or problems such as access, infrastructure, ground conditions, flood risk, hazardous risks, pollution or contamination;
- Potential impacts including the effect upon landscapes, nature and heritage conservation;
- The appropriateness and likely market attractiveness for the type of development proposed;

- Environmental and amenity impacts that may be experienced by future occupiers and neighbouring areas.

#### 1.1.6 Availability

- 1.1.7 A site is considered available for development, when, on the best information available (confirmed by the call for sites and information from land owners and legal searches where appropriate), there is confidence that there are no legal or ownership problems, such as unresolved multiple ownerships, ransom strips tenancies or operational requirements of landowners. This will often mean that the land is controlled by a developer or landowner who has expressed an intention to develop, or the landowner has expressed an intention to sell.
- 1.1.8 Because persons do not need to have an interest in the land to make planning applications, the existence of a planning permission does not necessarily mean that the site is available.
- 1.1.9 Where potential problems have been identified, an assessment will need to be made as to how and when they can realistically be overcome. Consideration should also be given to the delivery record of the developers or landowners putting forward sites, and whether the planning background of a site shows a history of unimplemented permissions.

#### 1.1.10 Achievability

- 1.1.11 A site is considered achievable for development where there is a reasonable prospect that the particular type of development will be developed on the site at a particular point in time. This is essentially a judgement about the economic viability of a site, and the capacity of the developer to complete the development over a certain period.
- 1.1.12 An important consideration for assessing the viability of a site is the development potential. The outline of a site does not necessarily mean that all of the area within is developable as there might be physical constraints or part of the site might be needed to provide infrastructure, such as a new school for example. The nature and scale of development will be another factor when considering development potential and viability.
- 1.1.13 Where constraints have been identified, the assessment should consider what action would be needed to remove them (along with when and how this could be undertaken and the likelihood of sites/broad locations being delivered). Actions might include the need for investment in new infrastructure, dealing with fragmented land ownership, environmental improvement, or a need to review development plan policy.
- 1.1.14 When these assessments have been completed sites that meet the criteria can be included in the Strategic Land Availability Assessment and published as part of the Local Plan evidence base. Inclusion in the SLAA does not mean that a site will

be allocated in the Local Plan. That will be determined as part of the preferred development strategy, which will start to emerge as part of the Issues and Options stage accompanied by public consultations in the spring.

## **1.2 Local Plan Programme**

- 1.2.1 Work is continuing on the assessments and these are currently on schedule to be completed in the spring in accordance with the Local Plan programme.
- 1.2.2 However, there remain a number of factors beyond the Council's control that may yet have an impact on the timetable. This includes the contribution of key infrastructure providers and statutory consultees to the assessment process and the ongoing Government Planning reforms, which are continuously changing aspects of Local Plan work and are the subject of another report on this agenda.
- 1.2.3 Meetings have now been held with all of the main infrastructure providers and statutory consultees and information on the submitted sites has been shared. Their responses could have important implications for the tests outlined earlier in this report, for example, if a site requires major investment in strategic infrastructure to deliver new homes or jobs during the plan period, this may make it unviable. Similarly, some of the statutory consultees may have emerging information on constraints that may reduce the developable area of a site, for example the Environment Agency in respect of flood risk.
- 1.2.4 Some of those consulted in this way have had experience of providing this information and have the in house capacity to respond in time. Others are less prepared for this task and some, (for example Highways England) are seeking additional studies to be carried out before coming to a view. Officers are discussing practical ways forward in respect of highway matters with Kent Highways.
- 1.2.5 Another risk to the Local Plan programme is the continuing planning reform agenda. One example of how this might impact on the programme is in respect of the revisions to the Planning Policy for Traveller Sites (PPTS) published in August 2015. One of the amendments was to change the planning definition of Traveller to demonstrate evidence of a nomadic lifestyle either now or in the future.
- 1.2.6 Gypsy and Traveller Accommodation Assessments (GTAA's) form part of the Local Plan evidence base and identify future needs for pitches for Traveller families and plots for Travelling Show People. The GTAA for Tonbridge and Malling was prepared by Salford University in 2012 based on a methodology that reflected the PPTS as published in March of that year. The change to the definition in August last year means that the GTAA is no longer in accordance with national policy.
- 1.2.7 The Government has not yet announced when it will reissue new guidance for preparing GTAA's and in the meantime Local Planning Authorities face a stark choice of either continuing with their current GTAA's, which may now represent an

over estimate of need, or revising their GTAA in the absence of new guidance at an additional cost and delay.

- 1.2.8 The Government has also made it clear that it wishes to see all future needs addressed in Local Plans, rather than through separate Development Plan Documents. It has also stated that Local Plans should be prepared as soon as practicably possible and ideally no later than 2017, so Local Planning Authorities will have to interpret the new PPTS as best they can.
- 1.2.9 Swale Borough Council has recently suggested an approach through its Local Plan Examination, which was praised by the Inspector although with the caveat that this is in the absence of new guidance on GTAAs and has not been tested. Swale revisited the survey data from their original GTAA and has taken a view on whether some of those respondents had ceased travelling or not. This has resulted in a downward revision of the need for additional pitches.
- 1.2.10 Following the Inspector's comments at the Swale Examination, the Kent Planning Officers Group submitted a letter to the DCLG seeking an opinion on how best to proceed. It is hoped that the Swale Inspector's report and a response from the DCLG may clarify the approach to be adopted in the Tonbridge and Malling Local Plan. This illustrates the challenges faced by plan makers during ongoing planning reforms.

### **1.3 Duty to Cooperate**

- 1.3.1 Officers and Members have continued to meet and maintain a dialogue with neighbouring authorities regularly to update on Local Plan progress and discuss relevant cross boundary issues in accordance with the Duty. To date no neighbouring Local Authority has formally asked whether Tonbridge and Malling could accommodate any unmet need for general housing or employment.
- 1.3.2 However, related to the issue of assessing the needs of Gypsies and Travellers discussed in the previous section, Maidstone Borough Council have formally asked their neighbours, including Tonbridge and Malling, if they can meet some of their unmet need.
- 1.3.3 Maidstone revisited their GTAA survey findings in the light of the revised definition for Travellers, but concluded that the original need (for 187 pitches between 2011-31) represents the best assessment available, whilst recognising that actual needs may be lower. This has resulted in a shortfall of 45 pitches.
- 1.3.4 I have responded initially by simply saying that it is not possible, at the current time, to confirm whether there may or may not be any allocations for this type of development in the emerging Tonbridge and Malling Local Plan. As noted in section 1.2.10 above, clarification of how best to assess future needs in the light of the changes to the PPTS is awaited and this may result in a lower need than in the current GTAA.

1.3.5 Similarly, until the assessments of Call for Sites submissions are completed, it is too early to confirm whether any may be suitable for future Gypsy and Traveller accommodation.

1.3.6 Maidstone Borough Council will be taking a report to their Strategic Planning, Sustainability and Transport Committee on the 13<sup>th</sup> January seeking approval to consult on a submission version of their Local Plan (Regulation 19). This may explain why the request has been made at this time (i.e. to demonstrate that all avenues have been explored).

#### **1.4 Summary and Conclusions**

1.4.1 This report provides Members with an update on progress made in relation to the Local Plan and sets out in some more detail the process for the technical assessments of the sites submitted, which is ongoing.

1.4.2 It is anticipated that the work will be completed in accordance with the programme for the Local Plan, which coincides with an Issues and Options public consultation in the spring. There are challenges to keeping to the programme including inputs from external consultees and continuing reforms to the planning system and some of these have been explained in the report.

1.4.3 The Local Plan is being prepared in accordance with the Duty to Cooperate. The first formal request from a neighbouring authority in respect of unmet Gypsy and Traveller need from Maidstone Borough Council was received in December.

#### **1.5 Legal Implications**

1.5.1 Local Planning Authorities are required to prepare and keep up to date a development plan for their area. Failure to do so may leave the Council's planning decision at risk of appeal.

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

1.6.1 There are no financial and value for money considerations arising from this information report.

Background papers:

Nil

contact: Ian Bailey  
Planning Policy Manager

Steve Humphrey  
Director of Housing, Planning and Environmental Health Services

This page is intentionally left blank



## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

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

#### Part 1- Public

#### Matters for Information

### 1 TRANSPORTATION UPDATE

This report provides Members with an update on various transportation matters including current and future consultations for alleviating the impacts of Operation Stack and proposals for a new Lower Thames Crossing. Progress in respect of planned or desired strategic highway improvements is also covered, including Tonbridge High Street, A21 dualling, M20 Junction 4 and M25 Junction 5 east facing slip roads. It also provides a brief update on future airport capacity following the Airport's Commission recommendations.

#### 1.1 Introduction

1.1.1 Transportation updates are regularly reported to this Board, the last occasion being in June 2015. There have been a number of significant developments since the last update and this report provides a brief summary of progress and next steps for information.

#### 1.2 Current and Future Consultations

##### 1.2.1 Operation Stack – Proposals for a new Lorry Parking Area

1.2.2 Highways England launched a public consultation to seek views on two new proposed lorry parking areas north of the M20 in the vicinity of Junction 11 in December. The proposal is in response to the extended Operation Stack in the summer of 2015 that caused significant disruption for users of the M20 and also local businesses and residents over a prolonged period of time. The suggested lorry parking area will provide better services for lorry drivers and allow the M20 to remain open for longer in the event of a closure of the Channel crossings. Comments are invited up to 25<sup>th</sup> January 2016.

1.2.3 Operation Stack was first introduced in the 1980s and had until 2015 been used fairly infrequently, approximately once a year between 2010-14. In 2015 it was deployed on 32 days (to the end of November) due to industrial action and migrant activities that caused disruption to crossings. Although this could be

considered to have been an exceptional year, freight traffic using the Channel crossings is growing and this has led to increasing calls for a more permanent solution.

- 1.2.4 The Government has agreed with the site owners that Manston Airport can be used temporarily as part of Operation Stack, but it is not ideally located (it cannot be used to serve lorries using Eurotunnel, for example) and can only be considered as a short term interim relief measure. In the Autumn Statement, the Government agreed to commit up to £250m to providing a major new permanent lorry park and to carry out consultations.
- 1.2.5 Views are sought on two alternative locations, both capable of accommodating up to 3,600 lorries, one to the west and one to the east of Junction 11 of the M20 in the vicinity of Stanford. There are also four alternatives for the way in which the lorry park would be used ranging from simply an alternative to Operation Stack on the M20, with basic facilities and no charge, to something more like a fully functioning truck-stop with enhanced services and open 24 hours a day 365 days a year with charging for overnight parking. Further consultations on a more detailed proposal are anticipated in the spring.
- 1.2.6 Although the options are located outside of the Borough and Operation Stack does not have a direct impact on users of the M20 further west than Junction 8 in Maidstone Borough, there are clear wider benefits to the Kent economy as a whole and other users of the Channel Crossings. This inevitably includes many businesses and residents of Tonbridge and Malling who we know to have been disrupted to varying degrees by the implementation of Operation Stack as it currently functions. Therefore, I intend to send an initial expression of general support for a permanent solution based in the vicinity of Junction 11 as proposed.
- 1.2.7 Lower Thames Crossing
- 1.2.8 Members will recall that Highways England on behalf of the Department for Transport is in the process of preparing options for a new road crossing of the River Thames.
- 1.2.9 A major public consultation exercise is due to take place starting in January for a period of 10 weeks. Highways England through their consultants Halcrow Hydra have been meeting with Local Planning Authorities to discuss consultation arrangements and contacts to ensure that local communities, residents and businesses have the opportunity to engage with the process. It is anticipated that a fuller report and draft response will be brought back to the next Board meeting in March.

### **1.3 Highway Improvements**

#### **1.3.1 Tonbridge High Street**

1.3.2 Phase one of the Tonbridge Town Centre Regeneration scheme began in the summer of 2015, paused to allow businesses to trade for the Christmas period, recommencing on the 4<sup>th</sup> January. Some delays have been experienced by Kent Highways and their contractors Amey due to technical difficulties associated with utilities and other services being discovered close to the surface requiring relaying and lowering that has meant that progress has been slower than anticipated. There have also been concerns expressed by businesses affected and other town centre users that information has been limited and communication could have been improved.

1.3.3 These issues have been flagged up with Kent Highways and from January more resources will be employed on both the works themselves and also communications. Works will be taking place on both sides of the High Street, staggered so as to allow the traffic to flow, but effectively doubling the rate of progress and a new communication plan has also been prepared and meetings with the traders established to improve the sharing of information.

1.3.4 The works in the High Street are expected to be completed by the end of April.

1.3.5 Although not forming part of the High Street improvements, consultants DHA have been commissioned to prepare some design work associated with improvements to River Walk and the forecourt and the area around the Tonbridge Station forecourt. In the event that there is any underspend from the High Street works post 2016/17 or that further funds can be secured officers have been working closely with Kent County Council and South Eastern so that a project to improve the access and egress from the station can be accelerated and implemented using this time limited funding to best effect. Further updates on this project will be provided in future reports.

#### **1.3.6 A21 Dualling**

1.3.7 The construction of the on-line scheme to dual carriage the 2.5 mile stretch between the Vauxhall and North Farm junctions on the A21 is well under way and still anticipated to be completed in the spring of 2017 as previously reported.

#### **1.3.8 M20 Junction 4**

1.3.9 The scheme, which will provide extra carriageway space on the junction gyratory system, is due to start during 2016. It will be funded by contributions from developers and from Local Growth Funding. The scheme includes the widening of the eastern bridge over the M20 to provide an extra traffic lane (from 2 to 3) and minor changes to the top of the east facing slip roads to accommodate the widened bridge.

### 1.3.10 M25 East Facing Slips

Kent County Council, KALC and TMBC jointly appointed consultants SYSTRA in November to carry out the M25/M26 Connectivity Study, which has been reported previously. This will establish whether a robust economic case can be made for new east facing slips at an appropriate location in the vicinity of Junction 5 of the M25/M26. The study is expected to be completed by the end of March.

## 1.4 **Future Airport Capacity**

1.4.1 The Government has postponed making a decision on future airport capacity until at least next summer pending further environmental impact reports in respect of the Airport's Commission recommendation for a third runway at Heathrow.

## 1.5 **Legal Implications**

1.5.1 There are no direct legal implications arising from this report.

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

1.6.1 There are no direct financial or value for money considerations arising from this report although there may be wider benefits for local residents and businesses as a result of some of the improvements being implemented or proposed in this report.

Background papers:

Nil

contact: Ian Bailey  
Planning Policy Manager

Steve Humphrey

Director of Housing, Planning and Environmental Health Services

# 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.

This page is intentionally left blank

# Agenda Item 11

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**

This page is intentionally left blank



# Agenda Item 12

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

This page is intentionally left blank