

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

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

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

5 November 2018

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, 13th November, 2018 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

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**PART 2 - PRIVATE**

11. Urgent Items

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

## **MEMBERSHIP**

Cllr D A S Davis (Chairman)  
Cllr J L Botten (Vice-Chairman)

Cllr M A C Balfour  
Cllr Mrs S M Barker  
Cllr P F Bolt  
Cllr V M C Branson  
Cllr M O Davis  
Cllr T Edmondston-Low  
Cllr D Keers

Cllr Mrs F A Kemp  
Cllr R D Lancaster  
Cllr M Parry-Waller  
Cllr S C Perry  
Cllr R V Roud  
Cllr A K Sullivan  
Cllr M Taylor

Apologies for absence

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Declarations of interest

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### PLANNING AND TRANSPORTATION ADVISORY BOARD

Tuesday, 24th July, 2018

**Present:** Cllr D A S Davis (Chairman), Cllr J L Botten (Vice-Chairman), Cllr M A C Balfour, Cllr Mrs S M Barker, Cllr P F Bolt, Cllr M O Davis, Cllr D Keers, Cllr Mrs F A Kemp, Cllr M Parry-Waller, Cllr S C Perry, Cllr R V Roud, Cllr A K Sullivan and Cllr M Taylor

Cllr Mrs J A Anderson, Cllr O C Baldock, Cllr R P Betts, Cllr T Bishop, Cllr M A Coffin, Cllr D J Cure, Cllr Mrs T Dean, Cllr B T M Elks, Cllr N J Heslop, Cllr D Lettington, Cllr B J Luker, Cllr D Markham, Cllr P J Montague, Cllr Mrs A S Oakley, Cllr M R Rhodes, Cllr H S Rogers and Cllr T C Walker were also present pursuant to Council Procedure Rule No 15.12.

Apologies for absence were received from Councillors V M C Branson and R D Lancaster

#### **PE 18/11 DECLARATIONS OF INTEREST**

Councillor M Davis declared an Other Significant Interest in the agenda item relating to the Local Plan on the grounds of his status as a partner of Warner's Solicitors. In accordance with the dispensation granted at Minute GP 16/19 (General Purposes Committee of 20 October 2016) he remained in the meeting and addressed the Advisory Board but took no further part in the discussion or voting.

#### **PE 18/12 MINUTES**

**RESOLVED:** That the notes of the meeting of the Planning and Transportation Advisory Board held on 5 June 2018 be approved as a correct record and signed by the Chairman.

#### **PE 18/13 LOCAL PLAN**

The Director of Planning, Housing and Environmental Health provided an update on the progress made towards preparing the Local Plan and in particular the report provided responses to matters raised at the previous Advisory Board meeting. A recommendation to Cabinet and Council to approve the Local Plan for public consultation and its submission to the Secretary of State was also proposed.

In addition, reference was made to the revised National Planning Policy Framework (NPPF) published earlier in the day (Tuesday 24 July). Whilst there had been insufficient time in advance of the Advisory Board meeting for officers to understand the full detail it was confirmed that the transitional arrangements, previously outlined, remained in place.

Consequently the target date for submitting the Local Plan to the Secretary of State was now 24 January 2019, if the Borough Council wished to have the Plan examined against the previous NPPF and in particular to avoid the new standardised approach to housing assessment.

A number of representations regarding the Local Plan had been received from residents and community groups in advance of the public consultation which would commence, in accordance with Regulation 19, once the Plan was approved by Council. This was expected to be in September 2018 and would give local residents and other parties the opportunity to comment on the proposals. These comments/representations would be submitted to the Secretary of State with the Local Plan and would ultimately be considered by an appointed Planning Inspector.

The report explained how the issues raised at the Advisory Board meeting on 5 June in respect of the Local Plan had been taken into account in the revised draft (attached as Appendix 1 to the report). It also highlighted any other changes that had been made in the light of new evidence and provided an update on the status of the Local Plan evidence base.

Careful consideration was given to the concerns raised previously, set out in detail at 1.2 of the report and it was noted that Kent Highways were bringing forward a number of junction improvements along the A20 corridor to alleviate existing issues and increase capacity for the future. Significant improvements to the Quarry Wood junction and Coldharbour roundabout were being brought forward as part of the Maidstone Integrated Transport Strategy.

After further investigation regarding the delivery of the relief road within the proposed allocation at Borough Green, Policy LP29 had been amended to replace the original criterion 4 with two new criteria 4 and 5. Concern was expressed that the proposed amendment to Policy LP29 would not improve traffic movement or air quality and it was felt that greater importance should be given to the relief road. It was suggested that Policy LP29 should revert back to its earlier criteria and further consideration be given to the delivery of the relief road.

Members participated in detailed discussions on a number of issues with particular reference made to the major sites at Bushey Wood, South Aylesford, Kings Hill (Broadwater Farm), Borough Green and South West Tonbridge. The main concerns raised by Members included:

- The perceived disproportionate allocation of housing between areas of the Borough as a whole and notably at Borough Green and in Aylesford;

- The inability of the road network to cope with current traffic movements and to cater for increased pressure from additional development. Further mitigation options continued to be explored with relevant parties;
- The uncertainty around the delivery of infrastructure and it was noted that the Infrastructure Delivery Strategy would provide more detail on how these requirements could be met. It was hoped that this would be available in the near future;
- Car parking and parking standards. Members welcomed the improved flexibility around achieving the most appropriate car parking provision by taking account of local circumstances including the layout of the development, the mix of dwellings, the character of the local area and access to public transport, as set out in LP42: Parking Standards;
- The Duty to Co-operate and concerns about Tonbridge and Malling being asked to take on neighbouring authorities housing allocation. In response to this concern, the Director of Planning, Housing and Environmental Health assured Members that no such approach had been received;
- The approach to contaminated land in respect of development should exceed the criteria set out in the Local Plan;
- Concern around the vehicular access to the proposed allocation at Broadwater Farm;
- Further clarity being provided about the phasing of the proposed access via Bellingham Way, New Hythe Lane in association with the Aylesford Newsprint site;
- Members welcomed the allocation of the Aylesford News Print site solely for employment use but expressed concern about intensification of distribution centres impacting on increased traffic and parking. In response, Members were advised that intensification and diversification of businesses on this site could be managed via the planning application process; and
- Members and local residents welcomed the proposed extension of the Green Belt between Kings Hill, West Malling and East Malling.

A number of other issues were raised by Members which were noted by officers and included concerns regarding the proposals for East Malling Research Station and queries on how representations received as part of the Regulation 19 consultation would be handled. With regard to the latter point, the Director of Planning, Housing and Environmental Health

indicated that the Borough Council had a responsibility to make all representations made at that stage available and options on how this could be achieved were being explored. Other points raised would be considered in reporting to Cabinet.

Finally, Members were reminded that the Local Plan was a strategic document and would be a valuable tool in supporting and guiding development management throughout the Borough. It was also reiterated that the risk of failing to submit a Local Plan within the transitional period set out by the Government in the new draft National Planning Policy Framework would result in significant risks associated with having to address a substantially higher housing provision. It would also cause significant further delays, which would place the Borough Council in a far more vulnerable position in terms of land supply in responding to planning applications and facing planning appeals.

**RECOMMENDED:** That the

- (1) content of the report be noted; and
- (2) revised draft of the Local Plan (at Appendix 1 to the report) be recommended to Cabinet for its consideration, subject to any further clarification and updates from Officers as required in the interim (as summarised above).

**\*Referred to Cabinet**

**PE 18/14 EXCLUSION OF PRESS AND PUBLIC**

There were no matters considered in private.

The meeting ended at 10.00 pm

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

13 November 2018

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

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

### 1 REVIEW OF THE PLANNING APPLICATION CHARGING REGIME

**Summary: This report provides a review of the pre-application charging regime and sets out the proposed new charges for 2019-2020.**

#### 1.1 Introduction

1.1.1 The current Pre-Application Advice Protocol and Charging regime was introduced on 1 April 2016 and updated again on 1 April 2017 and 1 April 2018, following a detailed monitoring period and review process.

1.1.2 Further detailed monitoring has been carried out from 1 April 2018 to 15 October 2018, which includes a breakdown of time spent on all tasks associated with giving pre-application advice.

#### 1.2 The current pre-application process

1.2.1 The Pre-application Protocol and fee structure, introduced on 1 April 2016 and updated on 1 April 2017 and 1 April 2018, identifies five main categories:

1. Householders: - includes proposals relating to individual houses and flats for residential purposes where the building affected is not a listed building.
2. Minor development:- includes alterations to an existing building (not householder) where there is no increase in floor space, increase in floor space less than 499 sq.m., 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 and 1 new residential unit.
3. Medium development: - includes advice on 2 to 9 new residential units or the creation/change of use of up to 999 sq.m. floor space.

4. Major development: - includes advice on 10 to 99 new residential units or the creation/change of use of 1,000 to 9,999 sq.m.
  5. Large/Strategic development: - includes advice on 100 or more new residential units or the creation/ change of use of 10,000 sq.m. or more floor space.
- 1.2.2 The charges for advice relate to the submission of one query only. Submissions that include multiple options, amended drawings submitted following a meeting/site visit and any additional matters not included with the original submission are viewed as new enquiries and are subject to a separate fee.
- 1.2.3 The Pre-Application Protocol identifies two categories where fees will not apply:
- Advice to third parties affected by the development and/or change of use
  - Disabled access improvements
- 1.2.4 The current Pre-Application Protocol offers a three option system as follows:
- A pre-application written response
  - A pre-application meeting at the Council offices, followed by a letter
  - A pre-application meeting on site, followed by a letter.
- 1.2.5 This system allows the prospective applicant to choose what level best suits their needs and budget. All three options have been used by prospective applicants during the monitoring period.
- 1.3 Proposed amendments**
- 1.3.1 The Pre-Application Protocol has been effective in delivering technical planning advice in a timely way since it was introduced in April 2016. Monitoring carried out this year has illustrated that the amendments implemented to the Protocol in April 2017 have been effective in addressing some of the minor issues experienced during the first year and no further changes were introduced in April 2018. A further assessment has been carried out and concluded that the current Pre-Application Protocol is working well. Therefore no changes are proposed at this time, but further monitoring will be carried out during 2019-2020 to ensure it continues to work effectively, is kept up to date and meets the needs of the customers.
- 1.3.2 However, the monitoring carried out from April 2018 indicates that the fees should be adjusted in order to recover the full costs of providing advice, and it is therefore proposed that the Pre-Application Charging Schedule be amended to reflect this. In addition, the hourly rate which forms the basis of the pre-application fee calculation has remained unchanged since 2016. It is therefore proposed that the

hourly rate be increased by 3% from £50 to £51.50. For clarity the proposed Pre-Application Schedule for 2019-2020 is attached as Annex 1 and the existing Pre-Application Schedule is attached as Annex 2.

- 1.3.3 Should the proposed changes to charging schedule be considered acceptable, then they could be introduced on 1 April 2019.

## **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 The current level of cost recovery for providing pre-application advice is projected to be £66,845 for 2018/19, based on actual cost recovery of £27,852 for April to August, which breaks down to an average cost recovery of £5,570 per month. This is slightly lower compared with the costs recovered in £2017/18, which was £68,480, however increased pre-application activity over the last 2-3 weeks means that the income for 2018/2019 is likely to be very similar, or possibly even higher, than for 2017/2018. In this respect it is likely to exceed the budget projection for 2018/2019 of £68,000. Therefore, it is considered that the fees for 2019/2020 support a budget projection of £70,000.
- 1.5.2 The projected cost recovery on pre-application fees is still considerably below the £100,000 estimated cost for delivering this service. However, the cost of providing advice to third parties makes up a notable proportion of the shortfall and, mindful

of their position, it is considered inappropriate to introduce a charging regime for them.

- 1.5.3 It is appropriate to review the protocol and charging schedule every year, to ensure the evidence base is up to date. This will ensure that we are responsive to the needs of the customer and that the charging schedule is fairly applied

## 1.6 Risk Assessment

- 1.6.1 Robust monitoring should be carried out every year to ensure the protocol and charging schedule in place is based on up to date evidence

## 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 amendments with effect from 1 April 2019:
- 1) Adopt the updated Pre-application Charging Schedule 2019/20 as attached at **[Annex 1]**.

Background papers:

contact: Louise Reid

Nil

Adrian Stanfield  
Director of Central Services & Monitoring Officer

## Annex 1

<b>Tonbridge and Malling Borough Council Pre-application charging schedule 2019/2020</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	£124 £103 + VAT	£186 £155 + VAT	£279 £232 + VAT
2	Minor development	£155 £129 + VAT	£279 £232 + VAT	£371 £309 + VAT
3	Medium development	£108 £155 + VAT	£371 £309 + VAT	£402 £335 + VAT
4	Major development	£514 £428 + VAT	£638 £531 + VAT	£706 £588 + VAT
5	Large Scale/Strategic Development	Site visit/meeting and written response option only £1,150 £958 + 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>				

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## Annex 2

<b>Tonbridge and Malling Borough Council Pre-application charging schedule 2018/2019</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	£96 £80 + VAT	£156 £130 + VAT	£252 £210 + VAT
2	Minor development	£126 £105 + VAT	£252 £210 + VAT	£312 £260 + VAT
3	Medium development	£228 £190 + VAT	£252 £210 + VAT	£312 £260 + VAT
4	Major development	£498 £415 + VAT	£618 £515 + VAT	£684 £570 + VAT
5	Large Scale/Strategic Development	Site visit/meeting and written response option only £1,116 £930 + 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>				

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

13 November 2018

#### Report of the Director of Central Services & Monitoring Officer

#### Part 1- Public

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

### **1 PLANNING ENFORCEMENT PLAN**

#### **Summary**

**This report provides an overview of the review of the adopted planning enforcement plan which is intended to continue to provide a clear and transparent structure in respect of how the Service will deal with planning enforcement matters, in particular the various powers available to the Council in remedying breaches of control and how decisions will be taken to exercise such powers.**

#### **1.1 Introduction**

1.1.1 The introduction of the Council's Planning Enforcement Plan was first reported to this Board in July 2016, with the plan subsequently being adopted following approval by Cabinet on 04 November 2016.

1.1.2 The Board at that time recommended that the Plan be subject to a six month review period. Since its adoption, Officers have continually monitored the usefulness of the Plan in terms of their day to day ways of working and for those who have contact with the Planning Enforcement function.

1.1.3 Subsequent to the wider review of the Planning Service which has now been implemented, an audit of the enforcement function and changes to the delegated authority of the Director of Planning, Housing and Environmental Health, and the publication of the updated National Planning Policy Framework (July 2018), the opportunity has been taken to undertake a more wholesale review of the Plan in its entirety to ensure that it remains fit for purpose and reflects changes to working practices arising from these recent events.

#### **1.2 Relevant policies and guidance:**

1.2.1 The Council's objectives in producing a Planning Enforcement Plan are consistent with the National Planning Policy Framework (2018) (NPPF).

- 1.2.2 Paragraph 58 of the NPPF relates to the enforcement of planning control and states:

*'Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.'*

- 1.2.3 The proposed planning enforcement plan does not conflict with the contents of the Council's wider enforcement policy or with legislation or Government guidance.
- 1.2.4 Since the Planning Enforcement Plan was first produced, the Council now also has a Corporate Enforcement Plan. The principles and approaches contained within that Plan accord with the enforcement specific plan.

### **1.3 Review of Planning Enforcement Plan:**

- 1.3.1 The review of the Enforcement Plan has been holistic but has principally addressed the following issues:
- 1.3.2 In recent months, it has been necessary to instigate action which has not habitually been undertaken by the Council including seeking injunctive relief to prevent works and subsequently residential occupation of a site by a Traveller family and endeavouring to take direct action to improve the condition of a site which was deemed to be causing a significant adverse impact on the amenity of the area in question. Whilst these powers are available to the Council through the provisions contained within the Town and Country Planning Act 1990, they were not directly referenced within the originally adopted Enforcement Plan. Whilst there is no need to set out any and all available powers within such a plan, in the interests of improving transparency and accountability, the opportunity has been taken to include these available measures, along with certain others which are referenced in the corporate plan including taking action under proceeds of crime legislation, overtly.
- 1.3.3 How the Council will deal with unauthorised Traveller encampments is also now directly referenced in the revised plan given that this is an issue which can cause a great deal of concern amongst local communities. This also affords the opportunity to make clear that the Council does not operate an out of hours planning enforcement service and distinguishes between the powers afforded to the Council as landowners in the event of an unauthorised incursion compared to those which can be used through the Planning Acts.
- 1.3.4 Until recently, the schemes of delegation set out in the Constitution did not extend to the serving of Enforcement Notices meaning that, except in emergency

situations, this fell within the terms of reference of the relevant Area Planning Committee. Expanding the delegated authority in respect of Enforcement Notices clearly has the advantage of allowing Officers to take the necessary action quickly where appropriate and proportionate to do so but it does mean that Councillors will not necessarily be fully aware of all actions being undertaken on a regular basis. Officers will continue to work closely with the relevant Councillors through informal exchanges of information and via the weekly lists but it is also suggested that a report could be brought to this board on a regular basis going forward to update Members on key enforcement cases and action taken.

- 1.3.5 Lastly, the review of the Plan has taken into account the implementation of the Planning Service review and the revisions included within the document reflect the updated reporting lines, removing reference to the previous Area Team based structure.

## **1.4 Legal Implications**

- 1.4.1 Without an up to date Planning Enforcement Plan in place the Council's decisions to take, or not to take, enforcement action (including prosecutions) may in future be subject to legal challenge through the Courts.

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

- 1.5.1 The revised Planning Enforcement Plan will continue to ensure existing resources are utilised in a more effective way and there are no direct financial implications with regard to its implementation.
- 1.5.2 The revised Planning Enforcement Plan will continue to provide a framework that makes best use of resources and is in accordance with the recommendations of the NPPF.

## **1.6 Risk Assessment**

- 1.6.1 The revised Planning Enforcement Plan will reduce the risk at appeal or by judicial review as it clearly sets out the process and timescales by which enforcement complaints will be investigated and progressed

## **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

- 1) Adopt the Planning Enforcement Plan as attached at **Annex 1**

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

Background papers:

contact: Emma Keefe  
Louise Reid

Planning Enforcement Plan (revised version)  
PTAB report dated 26 July 2016

Adrian Stanfield  
Director of Central Services & Monitoring Officer



# **Tonbridge and Malling Borough Council**

# **Planning Enforcement Plan**



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**PART 2: INVOLVEMENT IN THE PROCESS**

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- 5 Investigating alleged breaches
- 6 Communication
- 7 Parish and Town Council involvement
- 8 Scheme of delegation

## PART 1: BACKGROUND CONTEXT

**A breach of planning control is defined in Section 171A of the Town and Country Planning Act 1990 as: the carrying out of development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted.**

### 1. Introduction and Context:

- 1.1 This document sets out the approach the Council will take in relation to breaches of planning control in the Borough. Where breaches take place planning law lays down strict requirements which must be followed before the Council can enforce against them. These requirements seek to balance the concerns of local people and the rights of owners against the need to secure proper planning control in the borough.
- 1.2 The Council understands that breaches of planning control impact on peoples' lives. Consequently, the delivery of effective planning enforcement is an important issue.
- 1.3 With this in mind, this Plan sets out how the Council's planning enforcement service will seek to address breaches of planning control and prioritise its work. It describes the range of powers available to the Council, how the Council will decide whether or not to pursue enforcement action and the process of enforcement.
- 1.4 The Council's objectives in producing a Planning Enforcement Plan are consistent with the National Planning Policy Framework 2018 (NPPF). The Framework states:

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.*

*Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*

- 1.5 Planning enforcement covers the areas of planning permission, advertisement consent, listed building consent, and conservation area consent and tree preservation orders. National legislation allows some minor and small-scale works

to be undertaken without the need for any further consent or approval. These works are known as “permitted development”. Any works carried out as permitted development cannot be subject to enforcement action.

- 1.6 This Plan is in accordance with the objectives and approaches contained within the Council’s Corporate Enforcement Plan and should be read in conjunction with that document.
- 1.7 In dealing with any enforcement issues the Council must take into account the Council’s adopted frameworks and strategies as well as the guidance contained within the National Planning Policy Framework (NPPF) and the associated Planning Practice Guidance (PPG).

## **2. The Scope of Planning Enforcement:**

- 2.1 There are two key principles which underpin the planning enforcement system:

*A breach of planning control is **not** a criminal offence, **except for** unauthorised works to listed buildings, illegal advertisements, demolition without consent and unauthorised works to trees with Tree Preservation Orders or within Conservation Areas.*

*Other than in these cases, a criminal offence only arises when an Enforcement Notice or other formal notice has been served and has not been complied with upon the expiry of a specified time limit.*

- 2.2 There is a common misconception that breaches of planning control are a criminal offence and should automatically attract formal enforcement action. In fact, enforcement action is a discretionary power. It is for each local planning authority to decide the amount of resource to put into enforcement, how to determine when action is necessary and the type of action that is appropriate. In making these decisions the authority should be mindful of maintaining public confidence in the planning system but it should be recognised that in the majority of cases, formal enforcement action should be seen as a last resort.

*It is at the Council’s discretion whether action will be taken – any action proposed must be proportionate to the alleged breach.*

- 2.3 In investigating alleged breaches of planning control formally reported to it, the Council will make a reasoned decision whether the alleged breach merits further action. However, formal enforcement action will only be taken where it is fair and reasonable to do so. In making this judgement, we will assess all of the circumstances of the case and make reference to our adopted planning policies. In

addition we must also consider central government enforcement policy and guidance which is currently set out in the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) which specifically references when Authorities should take enforcement action.

2.4 Importantly, the NPPF sets out that ***'local planning authorities should act proportionately in responding to suspected breaches of planning control'***.

2.5 Formal enforcement action may only be taken in cases where

(i) there is a breach of planning control **and**;

(ii) it is expedient to take such action.

*What does expedient mean?*

*In general terms, this means where an unauthorised development is causing serious harm, rather than it being a minor or technical breach in control.*

*The matter of "expediency" covers a range of matters upon which a judgement needs to be based, a key issue is whether the breach would unacceptably affect public amenity or use of land that should be protected in the public interest.*

*Any enforcement action should be proportionate to the breach, so for example, it would be inappropriate to take formal action against a trivial or technical breach.*

*There will be cases where there is a breach of planning legislation but the breach or harm is so minor that action cannot be justified i.e. it is not expedient or in the public interest to pursue the case.*

2.6 Examples of harm resulting from a breach of planning control *could* concern:

- Harm to amenity;
- Highway safety issues for example danger from increased traffic flows;
- Noise nuisance or;
- Loss of daylight or privacy.

2.7 This is not an exhaustive list of 'harm' but indicates that there must be recognisable planning harm.

2.8 Such harm would **not** include, for example:

- Loss of value to a neighbouring property;

- Competition to another business;
- An extension to a building that is slightly larger than permitted development rights allow but does not create any comparative harm;
- Private rights to a view.

2.9 As such, the planning enforcement team will **not** investigate the following:

- Neighbour disputes or other civil issues including boundary disputes or enforcement of covenants. In these matters, complainants need to contact their solicitor or local Citizens Advice office.
- The use of or development on adopted highways, pavements or highway grass verges. These matters should be addressed to Kent County Council as the Highways Authority;
- Dangerous structures. These matters should be addressed to the Council's Building Control team;
- Fly-tipping, litter and fly posting. These should be addressed to the Council's Waste and Street Scene Service.

### **3. The general approach to Enforcement – guiding principles:**

3.1 Government guidance on enforcement focuses not just on the impact of any breach on the complainant but on the rights of the owner or occupier where the alleged breach is occurring. With this in mind, the Council is committed to acting in a fair and consistent manner and has adopted this enforcement plan as part of this commitment. When exercising its enforcement functions the Council will act in a way that is:

- **Consistent and fair**
  - We will look at past cases and try to take a similar approach, for consistency, where this seems fair and reasonable. Cases will be investigated in accordance with the priorities set out within the plan.
- **Transparent and accountable**
  - Members, residents, existing and potential local businesses, complainants, alleged offenders and council staff should understand how we provide the service and the principles that guide it. We will provide an easy-to-access service, where the procedures, level of service provided and the rights of appeal for the alleged offenders are clearly explained and easy to understand.
- **Proportionate and targeted**

- Any proposed action is in keeping with the scale of the alleged breach and the amount of harm caused. In each case we will decide on the most appropriate course of action to follow. Under the law we are only allowed to take enforcement action if it is expedient to do so having taken into account government guidance, our own development plan policies and the specific circumstances of the case.

## **PART 2: INVOLVEMENT IN THE PROCESS**

### **4. Advising the Council of possible breaches:**

- 4.1 Reports of possible breaches of planning control should, whenever possible, be made in writing. This enables the Council to have a written record of the need for initiating investigation and possible action. Reports of suspected breaches can be made by:
- Completing an online enforcement investigations form which can be found on the Council's website at <http://www.tmbc.gov.uk/services/planning-and-development/planning/planning-enforcement>;
  - Emailing [planning.enforcement@tmbc.gov.uk](mailto:planning.enforcement@tmbc.gov.uk) or;
  - Sending a letter to the Planning Enforcement Team at the Council's Kings Hill Offices
- 4.2 When this is not possible reports should be made in person, for example, by telephone to enable Council officers to make a detailed written record.
- 4.3 Anonymous reports will **not** be investigated unless they concern a statutory listed building or a protected tree.
- 4.4 Vexatious or repeated complaints will **not** be investigated. The Development Control Manager and Senior Enforcement Officer will determine these on a case by case basis.
- 4.5 The name and address of those making complaints will not be repeated to the person or organisation involved in the alleged breach.
- 4.6 In the event that a request is made to the Council under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, personal information of individual complainants will not be disclosed in accordance with the principles of relevant data protection law.

### **5. Investigating alleged breaches:**

- 5.1 When the Enforcement Team receives an allegation that a breach of planning control may be occurring, the Senior Enforcement Officer assigns this case to a member of the Enforcement Team. An initial assessment of the nature of the

breach is then carried out and the case is categorised according to what level of priority it should be accorded.

- 5.2 All allegations of planning control breaches will be prioritised and investigated thoroughly and accurately. Below are the priorities we have assigned to different types of alleged breaches, and the target times we have set to carry out an initial site visit.

**PLEASE BE AWARE: These are target timescales for the undertaking of an initial site inspection and will be adhered to as far as reasonably practicable in the prevailing circumstances. Following the initial inspection, a subsequent investigation will take place the length of which will be dependent on the complexities of the individual case.**

Priority ranking	Case characteristics	Target for initial site inspection	Comments
Top Priority	1. Work to Listed Buildings. 2. Work to protected trees. 3. Development likely to have a serious impact on health or public safety. 4. Breaches of planning control in respect of development subject to Environmental Impact Assessment.	1 working day	In effect the approach would be as soon as possible to prevent irrevocable damage.
High Priority	1. Development causing significant harm the quality of life of a significant number of local residents. 2. Development with some (less serious or immediately threatening) impact on health or public safety. 3. Development causing potential harm to a Conservation Area or Site of Special Scientific Interest.	5 working days	Cases with these characteristics are inevitably themselves subject to assessment and judgement during triage – may require engagement with outside specialist bodies which may have more

	4. Development potentially causing significant harm to the landscape.		appropriate powers of control or enforcement (e.g. Environment Agency, Health and Safety Executive)
Medium Priority	1. Development which causes limited harm to individuals and/or local communities.  2. Development other than of a wholly minor nature not falling within any other category.	10 working days	
Other Priority	1. Minor developments such as sheds, fences.  2. Most advertisements.  3. Other minor breaches of planning conditions.  4. Minor departures from approved plans.  5. Most cases of untidy sites other than those which have particular characteristics which fall within a higher priority	As soon as resources allow, bearing in mind other priorities	

- 5.3 This prioritisation reflects the perceived urgency and level of harm arising to amenity or to areas or features that benefit from special protection.
- 5.4 At this stage the complainant is informed of the case officer's name and contact details. The named Officer will act as the main point of contact and will advise all parties on the outcome of the case.
- 5.5 Additionally, Borough Council Members are informed of the receipt of allegations on a weekly basis.
- 5.6 The enforcement case officer will inspect the site within the given timescale to determine if a breach of planning control is occurring. This is an essential part of almost every case to establish the actual circumstances on the ground and will also involve research into the site planning history.
- 5.7 If there is no evidence of a breach occurring at this stage, a brief report is produced by the case officer and passed to the Development Manager for endorsement.

- 5.8 Should the first inspection prove inconclusive, the enforcement case officer will contact the site owner requesting a meeting on the site, or request further information as might be necessary, so that further investigations can be undertaken.
- 5.9 Whatever the assessment, the complainant will be informed and advised of the next course of action.

**If a breach is identified**

- 5.10 If a breach of planning control *is* found an assessment has to be made, on a case by case basis, as to whether:
- it is or is not appropriate to take any further action at all,
  - to proceed to try to resolve the breach informally through negotiation;
  - to seek to invite a retrospective planning application; we will only do this if there is some prospect of permission being granted, or
  - to proceed directly towards formal action such as the service of an enforcement notice.
- 5.11 The assessments are made by the Enforcement Officer in conjunction with the Development Manager, who also endorses any recommendations made.

**No formal action:**

- 5.12 It is not automatically the case that the Local Planning Authority will take any action (whether formal or informal) in the event that a breach is discovered to seek to rectify matters. A judgement must be made in each and every case as to whether any action is expedient. This judgement will involve consideration of the seriousness of the breach, the level and nature of any harm that is being caused, and the proportionality of any contemplated remedial action. If the breach is relatively minor, inconsequential or of a purely technical nature, there will be some instances where no further action is appropriate.

**Negotiation:**

- 5.13 In some cases it may be possible to bring about a satisfactory resolution through informal action such as negotiations with those responsible. This may, for example, bring about the cessation of the unlawful activity, or reduce any harmful impacts so that they are within acceptable bounds.
- 5.14 Government guidance makes it clear that in all but the most serious cases we should initially seek to have planning breaches remedied through negotiation. In these events, the person carrying out the breach will be sent a letter confirming

that the breach should be remedied in a specific timescale, or information should be provided to justify to us that no further action should be taken.

### **Retrospective planning applications:**

- 5.15 A local planning authority can invite a retrospective application. In circumstances where they consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application (Section 73A of the Town and Country Planning Act 1990) without delay.
- 5.16 We will only do this where it is considered that there is a reasonable prospect of permission being granted. The invitation to submit an application is not, however, meant to imply that permission will necessarily be granted. But it does provide a formal process for consideration of the merits of the case including, importantly, public consultation. In many cases where we follow this course of action, we may eventually conclude that it is appropriate to grant permission subject to conditions that exercise control over the most significant and potentially harmful impacts.

### **When might it be appropriate to serve an Enforcement Notice?**

- 5.17 Wherever possible, we will try to resolve harmful activities through informal action or the planning application process. However, where it is felt that the breach is significantly harmful and is unlikely to be rectified by way of the submission of a planning application we will request that the breach is ceased/remedied within a specified timescale; this is determined on a case-by-case basis and will depend upon the seriousness of the breach and the nature of harm that is being caused. Should the owners fail to meet this request then enforcement action is required.
- 5.18 Enforcement Notices are our main enforcement tool. Government guidance sets out that the power to issue an enforcement notice is discretionary (Section 172 of the Town and Country Planning Act 1990). An enforcement notice should only be issued where we are satisfied that it appears that there has been a breach of planning control and it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.
- 5.19 Enforcement notices are formal legal documents that will require the owner or occupier to take specific steps to remedy the planning breach in a specified time. If the notice is not complied with the planning breach will become a criminal offence which can be prosecuted in the Courts. However, the notice may be appealed to an independent, government- appointed Planning Inspector. In such cases the effect of the Enforcement Notice is suspended whilst the appeal is ongoing. Inspectors can decide to uphold the notice, amend it or have it quashed.
- 5.20 Alternatively, if the breach consists of a breach of conditions on an existing permission, a Breach of Conditions Notice can be issued. In this case, a

continuing breach could lead to prosecution in the Magistrates' Court. There is no right of appeal against a Breach of Condition Notice.

5.21 Where a planning application is invited but none is submitted within a reasonable period, consideration is given to taking further action. Where formal action is contemplated, we will take legal advice before commencing such action.

5.22 In addition, the Council will, in exercising its duties under Regulation 35 of the Environmental Impact Assessment Regulations 2017, have particular regard to any breaches which have implications for features of developments intended to avoid, prevent, reduce or offset significant adverse effects on the environment that have been approved within the context of an Environmental Statement.

**Other possible types of formal action:**

- Planning Contravention Notice (PCN)

5.23 This is a legal notice which allows us to bring the breach to the attention of the owner or occupier and requires the alleged offender to provide certain information. A planning contravention notice may be issued under Section 171C of the Town and Country Planning Act 1990 and can be used to do the following:

1. allow us to require any information for enforcement purposes about any operations being carried out, any use of or activities being carried out on the land, and;
2. can be used to invite its recipient to respond constructively to us about how any suspected breach of planning control may be satisfactorily remedied.

5.24 The issuing of a PCN is discretionary. We need not serve one before considering whether it is expedient to issue an enforcement notice or to take any other appropriate enforcement action.

5.25 It is a criminal offence to give false or misleading information in response to a PCN and in the event the Council becomes aware of such an occurrence consideration will be given as to whether prosecution of the offence would be in the public interest.

- Section 215 notices

5.26 A Local Planning Authority has the power to issue a notice under s215 if the amenity of part of its area is adversely affected by the condition of a piece of land. The notice requires such steps as may be specified for remedying the condition of the land (includes buildings) and provides a minimum of 28 days before it takes effect. There is no right of appeal to a planning inspector, although before the notice takes effect an appeal may be made to the Magistrates Court by those served with the notice or any other person having an interest in the land. The

Council will consider serving such a notice where clear and demonstrable harm is arising to public amenity as a direct result of the condition of a piece of land.

- Stop Notices, Temporary Stop Notices and Court Injunctions

5.27 These can be used to bring a quick stop to development where a breach is causing serious or irreparable harm and immediate action is justified. They will therefore generally only be used in the most serious cases. The use of injunctions will be considered in appropriate cases, such as where a listed building is undergoing alterations without consent that affects its special historic and architectural interest or where the Council has evidence that a site will be developed without planning permission and in doing so will cause serious harm to particular planning interests.

- Prosecution

5.28 In most cases the Council cannot prosecute until we have taken formal enforcement action through the service of a formal notice, such as an Enforcement Notice or Breach of Conditions Notice, and any period specified in that notice has expired.

Prosecution does not bring about the remedying of a breach; rather it can be seen as the Courts “punishing” the person responsible, usually through a fine. Even though a successful prosecution may not remedy a planning breach on its own it can have an important deterrent effect.

We will not take a prosecution forward without first taking legal advice. As part of that advice, an assessment will be made as to whether there is sufficient evidence to take a prosecution forward and whether it is, in all the circumstances, in the public interest to take a prosecution, in accordance with the Code for Crown Prosecutors.

- Additional prosecutions in response to ongoing non-compliance

Further to prosecution action as set out above, the breach of a notice may continue. In such circumstances, the Council will consider whether further prosecutions are appropriate and in the public interest in addition to the following possible courses of action.

- Proceeds of Crime Act 2002 (POCA)

Confiscation orders under the Proceeds of Crime Act 2002 (POCA) provides power to local authorities to obtain confiscation orders against people who commit planning crimes, to deprive them of the financial benefit they have gained as a result of committing planning crimes.

With a few exceptions, breaching planning control is generally not a criminal offence, but such activities can become criminal where they continue to occur in breach of a valid, effective enforcement notice.

Obtaining a confiscation order under POCA in these circumstances punishes the offender by forfeiting the profits attributable to the planning breaches, and in such circumstances the local authority receives a share of those profits. Using careful judgement and thorough investigation, local authorities can use this tool to target known repeat offenders, creating a real deterrent against breaches of planning law, while at the same time recovering sums to cover costs of any necessary remedial action.

In considering cases of ongoing breaches of effective enforcement notices, the Council will consider whether such action is appropriate and proportionate.

- Injunctions

The Council will, when it is considered to be expedient for any actual or apprehended breach of planning control to be restrained, apply to the High Court or County Court for an injunction to restrain a breach of planning control (section 187B of the Town and Country Planning Act 1990).

- Direct Action

The Council has the power in certain circumstances to make sure an enforcement notice is complied with by carrying out the required steps directly. It can also make the decision to take direct action to remedy a breach of planning control rather than serve a formal notice in the first instance.

In such circumstances, the Council can recover all the costs incurred from the owner. Deciding whether or not to pursue direct action will only be done following a detailed review of all the relevant circumstances of an individual case and the balancing of all determinative factors. Such action will only be taken if the Council is confident that it is proportionate and necessary to do so.

## **6. Unauthorised Traveller Encampments:**

- 6.1 The full range of the Borough Council's planning enforcement powers may be considered in relation to more long-term encampments (in the event of a breach of planning control), particularly where the land in question may be owned by the travellers themselves. It is unlikely that planning enforcement powers could be used to address short term encampments by virtue of their very nature. Separate powers exist to address unauthorised encampments on Council owned land in any event.
- 6.2 There is rarely an opportunity or a justification for action to be taken out of hours whilst balancing all the relevant elements including European Convention on

Human Rights (ECHR) considerations, and as such the Council does not operate an out of hours planning enforcement service.

## 7. Communication:

7.1 If you draw our attention to a possible planning enforcement issue we will:

- not consider anonymous enquiries or vexatious or repeated complaints;
- write to acknowledge your complaint within the prescribed time period;
- write to let you know the priority it has been given and who is investigating it;
- contact you if we need further information;
- keep you informed on progress at key stages of our investigation;
- let you know the final outcome of your complaint;
- treat your complaint confidentially.

7.2 If we have been informed that you may be responsible for a planning breach we will:

- provide identification whenever we visit;
- provide the name of the officer carrying out the investigation;
- investigate the complaint thoroughly before making any decision on what action to take;
- write to you explaining our conclusions;
- explain what you need to do to put matters right, how long you have to do this and what the consequences might be if this does not happen;
- inform you if we decide to issue an Enforcement Notice, intend to take any direct action or start legal action.

*It is important to understand that live enforcement investigations are confidential because of the possibility of future legal action and in accordance with relevant data protection legislation. This means that the amount of information that can be divulged about any particular case will be limited.*

7.3 If you feel that there has been an error in the way in which an enforcement investigation is being carried out, or you are dissatisfied with the outcome of the

Council's investigations, you should use the Council's formal complaints procedure which can be found on the Council's website at

<http://www.tmbc.gov.uk/services/council-and-democracy/complaints/complaints-procedure>

## **8. Parish and Town Council involvement:**

- 8.1 Effective community engagement is a key part of delivering a responsive and accountable planning enforcement service. Decisions on whether or not to take enforcement action are governed largely by the law and clearly defined material planning considerations and as a result cannot be unduly influenced merely by local perception. However it is important that the service is fully receptive to concerns raised by individual communities in addition to service improvement ideas that are generated from a community level.
- 8.2 The Council recognises that parish and town council members have an important role to play in this. Town and Parish Councils have a great deal of local knowledge and awareness of what is happening in their areas. Town and parish councils can inform the planning enforcement process and as such the Council encourages them to engage with officers over planning enforcement issues.

## **9. Scheme of delegation:**

- 9.1 The Director of Planning, Housing and Environmental Health has delegated authority to issue all planning enforcement notices
- 9.2 Prosecution proceedings are delegated to the Director of Central Services.



**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**PLANNING and TRANSPORTATION ADVISORY BOARD**

**26 July 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 PLANNING ENFORCEMENT PLAN**

**Summary**

**This report provides an overview of the proposed planning enforcement plan which is intended to provide a clear and transparent structure in respect of how we will deal with planning enforcement matters, in particular how complaints will be managed and prioritised.**

**1.1 Introduction**

- 1.1.1 Planning enforcement is a statutory function of local government, although the power to take formal action is discretionary. The Council as Local Planning Authority has responsibility for the investigation of reported breaches of planning control. Unauthorised development can have harmful consequences and the enforcement regime exists to address and resolve such situations. Failure to investigate and enforce planning conditions or address unauthorised development can reduce the effectiveness of planning control and undermine public confidence in the planning system. Equally, it is important to manage expectations about what can be achieved and in which circumstances planning enforcement action can appropriately be used.
- 1.1.2 The basis for the planning system is to protect amenity, whether it is the quality of the environment in general, or the quality of life of people living close to development. Powers have been granted to the Local Planning Authority to ensure that action can be taken against unauthorised development or a breach of planning control which is causing demonstrable harm to the amenity of the area. Breaches of planning control impact on peoples' lives. Consequently, the delivery of effective planning enforcement is an important issue.
- 1.1.3 With this in mind, this Plan sets out how the Council's planning enforcement service will seek to address breaches of planning control and prioritise its work. It describes the range of powers available to the Council, how we should decide whether or not to pursue enforcement action and the process of enforcement.

## **1.2 Relevant policies and guidance:**

1.2.1 The Council's objectives in producing a Planning Enforcement Plan are supported by the National Planning Policy Framework (2012) (NPPF).

1.2.2 Paragraph 207 of the NPPF relates to the enforcement of planning control and states:

*'Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.'*

1.2.3 The proposed planning enforcement plan complies with the contents of the Council's wider enforcement policy, together with national legislation and Government guidance.

## **1.3 The Planning Enforcement Plan:**

1.3.1 The Planning Enforcement Plan sets out the approach the Council will take in relation to breaches of planning control in the Borough. Where breaches take place planning law lays down strict requirements which must be followed before the Council can enforce against them. These requirements seek to balance the concerns of local people and the rights of owners against the need to secure proper planning control in the borough.

1.3.2 The Council's commitment to publishing a Planning Enforcement Plan is borne out of a need to ensure planning enforcement is managed proactively and in a way that is appropriate for the Borough and its residents. It sets out the Council's approach to enforcement, including timescales for action, explaining in detail how the Council will respond to suspected breaches of planning control. The prioritisation of planning enforcement resources in terms of planning breaches also forms part of the document.

1.3.3 The plan is intended to provide greater transparency and accountability about how the Local Planning Authority will decide if it is expedient to exercise its discretionary enforcement powers, whilst seeking to deliver an effective service within a challenging environment where expectations are high.

1.3.4 The plan is also intended as a proactive tool for Members of the Council who are often the public face of the Council concerning issues which may require enforcement action. Having an adopted Planning Enforcement Plan to refer to

should provide Members with clarity and confidence in addressing such matters, as well as providing end users with more transparency and consistency.

- 1.3.5 In addition, the plan will also be helpful to the Parish Councils in clarifying the processes around planning enforcement. Engagement with the Parish Councils is important and, in recognition of this, steps have been taken to improve communication by providing regular updates on enforcement cases in their areas.

## 1.4 Legal Implications

- 1.4.1 Without an up to date Planning Enforcement Plan in place the Council's decisions to take, or not to take, enforcement action (including prosecutions) may in future be subject to legal challenge through the Courts.

## 1.5 Financial and Value for Money Considerations

- 1.5.1 The Planning Enforcement Plan will utilise existing resources in a more effective way and there are no direct financial implications with regard to its implementation. the
- 1.5.2 The Planning Enforcement Plan will provide a framework that makes best use of resources and is in accordance with the recommendations of the NPPF.

## 1.6 Risk Assessment

- 1.6.1 The Planning Enforcement Plan will reduce the risk at appeal or by judicial review as it clearly sets out the process and timescales by which enforcement complaints will be investigated and progressed.

## 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 that Cabinet be asked to **Adopt** the Planning Enforcement Plan as attached at **[Annex 1]**.

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

Background papers:

Nil

contact: Emma Keefe  
Development Control Manager  
Louise Reid  
Head of Planning

Steve Humphrey  
Director of Planning, Housing and Environmental Health

## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

13 November 2018

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

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

### 1 TRANSPORTATION UPDATE

#### Summary

**This report provides an update on the current consultation process relating to the Lower Thames Crossing and Gatwick Airport.**

#### 1.1 Lower Thames Crossing

- 1.1.1 A 10-week [consultation](#) on the Lower Thames Crossing is open from 10 October until 20 December. The proposed new road link is a priority for government, which will connect Kent from the M2/A2 at Shorne in Kent, with Thurrock and Essex at junction 29 of the M25 and the A13 at Tilbury.
- 1.1.2 Highways England state that the infrastructure project will provide over 90% more road capacity across the River Thames east of London. In its first year, more than 27 million drivers are forecast to use it, reducing the number of vehicles using the Dartford crossing by 22%. Proposed benefits also include reduced congestion on approach roads to the Dartford Crossing, including parts of the M25, A13 and A2, and improved journey times on the M20 west of junction 6.
- 1.1.3 Following publication of the preferred route of the crossing in April 2017, Highways England has continued to assess and refine proposals which are the subject of the consultation. These include an updated, more detailed design which aims to maximise the project's benefits and includes changes to minimise the impact on local communities and the environment.
- 1.1.4 The updated proposals for the Lower Thames Crossing include;
- Inclusion of 14.5 miles (23km) of new roads connecting the tunnel to the existing road network.
  - Improvements to the M25, A2 and A13, where the crossing connects to these roads.

- Two 2.5 mile (4km) tunnels, one for southbound traffic, one for northbound traffic crossing beneath the river.
  - A reduction in height of the road in some locations by as much as 5-6 metres to reduce its visual impact.
  - Delivery of the route as a motorway with three lanes in each direction, along the whole route from the M25 to the A2.
  - No hard shoulders in common with other smart motorways.
- 1.1.5 Updated maps have been published alongside further project details, which include information on environmental and construction impacts. **Annex 1** shows the arrangement of the whole scheme.
- 1.1.6 In terms of wider impacts upon the road network within Tonbridge and Malling, Highways England say that they are investigating how the new crossing will impact both the nearby local roads as well as the wider regional road network. They are developing their understanding of where there will be a reduction in traffic, and also where increases are predicted.
- 1.1.7 Maps shown under section 8 of the [consultation](#), show an estimated decrease in traffic flow on the M20 between junctions 4 and 6 during the 7-8am) and 5-6pm peak periods, of between 100 and 999 vehicles. Loading on the A228 and A229 is however shown to increase on these routes by 101 – 500 vehicles during these times. These approach roads will be handling addition traffic due to the expected ease of using the new crossing.
- 1.1.8 Highways England are working with local authorities to identify the locations where further improvements may be needed, which are suggested for consideration as part of both current and future road investment programmes. Kent's Local Transport Plan 4 identifies transport priorities for Tonbridge and Malling, these include improvements for the A228 corridor between the M20 and the M2, as well as improvements on the A229 Bluebell Hill.
- 1.1.9 In response to the consultation, officers from TMBC will be engaging in dialogue with Highways England and Kent County Highways through the North Kent Lower Thames Crossing Working Group, which is being co-ordinated by Thames Gateway Kent Partnership.

## 1.2 Conclusion

- 1.2.1 TMBC welcomes the delivery of the Lower Thames Crossing, which will provide a significant improvement in terms of journey times and reliability for those wishing to cross the river. Whilst the cost of the project is substantial (£5.3-£6.8 billion), the economic benefits are potentially positive for Kent, with a Benefit Cost Ratio estimated to be between 1.5 and 2, which means that for every pound spent £1.50 to £2 in wider benefits is expected.

1.2.2 The implications for the A228 and A229 are, however, a concern and there is currently no detailed analysis of traffic impacts. The delivery of improvements for these routes will need to be prioritised going forwards to meet growing demand.

### 1.3 Recommendation

1.3.1 That the content of this report be **NOTED**, and that the issues raised in response to the Lower Thames Crossing consultation, be supported for **APPROVAL** by Cabinet and submission to Highways England.

### 1.4 Gatwick Masterplan

1.4.1 Gatwick Airport published an [updated masterplan](#) on 18 October for 12 weeks consultation. This sets out proposals for the airport's ongoing development, to meet anticipated passenger growth and global connectivity requirements. Currently Gatwick handles 45 million passengers per year, this could increase to 53 million passengers over the next 5 years. The airport's infrastructure would need to evolve to meet the various levels of passenger growth that could be achieved.

1.4.2 The masterplan will replace the current version which was prepared in 2012, and seeks to strike a balance between economic growth and environmental impact. This updated masterplan is a response to the Government's Aviation Strategy call for evidence, titled '[making best use of existing runways](#)'. The Gatwick consultation sets out options as to how this could be pursued, which include;

- 1) Main runway - Using only the main runway could support incremental passenger growth. Up to 61 million passengers could be accommodated through the use of advanced air management technology to intensify use during peak and off-peak periods and through the use of larger capacity aircraft. Modern engines are expected to reduce noise impacts.
- 2) Standby runway - Under its current planning agreement, Gatwick's existing standby runway is only used when the main runway is closed for maintenance or emergencies. However, the 40-year planning agreement will come to an end in 2019. The draft masterplan sets out how the standby runway could be brought into routine use for departing flights only, alongside the main runway by the mid-2020s.

Gatwick state that the concurrent use of the standby runway would allow the airport to accommodate an additional 10-15 aircraft per hour. This could support the handling of up to 70 million passengers per year by 2032. This level of growth could meet all international safety requirements, and be delivered without increasing airport charges or the airport's noise footprint, providing greater operational resilience.

Planning permission would however, be required through the Development Consent Order process for this option, further feasibility work and public

consultation would be required to support this during 2019. Implementation of this option could be achieved in 5 years.

- 3) Additional runway - Gatwick are not currently pursuing the option of building a brand new runway to the south of the airport. This follows the publication of the Airports National Policy Statement, which confirmed government's preference for expansion at Heathrow. They do however, believe it is in the national interest to continue to safeguard the land for use in the longer term.

This option could support the handling of 95 million passengers per annum, but would require substantial changes to the airports infrastructure, as well as infrastructure improvements to the surrounding road network and sub-regional connections. Environmental implications would require mitigation and compensation measures.

- 1.4.3 There has been longstanding opposition to a second runway at Gatwick amongst West Kent local authorities and Kent County Council, primarily due to the impact of aircraft noise upon those who are situated under flight paths, the limited perceived direct economic benefits for residents, and concerns regarding the adequacy of surface transport connectivity. West Kent Partners continue to lobby for a convenient rail service to Gatwick from Tonbridge, via Redhill.

- 1.4.4 Gatwick airport is committed to a reduction in car based flight trips. Whilst the masterplan states that there is a commitment to increase the frequency of connecting rail services to Redhill, to every half hour under the forthcoming GTR franchise agreement, no other measures are proposed to improve sustainable transport access for passengers and airport workers who are based in Kent. Only under the second runway scenario is there a pledge to provide a £46.5m contribution to wider transport and noise mitigation measures.

## **1.5 Conclusion**

- 1.5.1 According to Gatwick Airport 7.4% of all terminating passengers that use the transport hub are based in Kent, the highest amongst counties in the South East. Significant concerns remain regarding the further expansion of the airport through the intensification in use of the main runway, and/or the simultaneous use of the standby runway, in terms of noise impacts and surface transport connectivity for residents and those visiting the borough. Further technical evidence would need to be provided by the airport to support the assumptions set out in the masterplan document.

## **1.6 Legal Implications**

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

**1.7 Financial and Value for Money Considerations**

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

**1.8 Recommendation**

1.8.1 That the content of this report be **NOTED**, and that the issues raised in response to the Gatwick Master Plan consultation, be supported for **APPROVAL** by Cabinet and submission to Gatwick Airport Ltd.

The Director of Central Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's budget and policy framework.

Background papers:

contact: Bartholomew Wren  
Principal Planning Officer

Nil

Adrian Stanfield  
Director of Central Services and Monitoring Officer

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Map uploaded as a separate supplement.

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

13 November 2018

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Matters for Information

### 1 SECTION 106 MONITORING REPORT

#### Summary

**This report provides an overview of planning obligations for the period 2016-2018 under section 106 of the Town and Country Planning Act 1990.**

#### 1.1 Introduction

1.1.1 Development Management recently underwent an audit of how section 106 obligations were monitored, the outcomes of which culminated in the creation of a corporate monitoring group and system which has allowed for the recording and monitoring of all new and existing obligations secured.

1.1.2 This has been subject to more recent review, with one outcome being that the Audit Committee received a report concerning the monitoring regime put in place for s106 obligations. Moving forward the committee agreed that 6 monthly reports be taken to this Board outlining the nature of any obligations secured, received and used.

#### 1.2 Relevant statutory and policy framework:

1.2.1 Section 106 agreements, also known as planning obligations or developer contributions, are typically undertakings by developers or agreements between a local planning authority and a developer in the context of granting planning permission. Their function is to make acceptable development which would otherwise be unacceptable in planning terms and they typically involve commitment to provide something in-kind on site in a particular form (e.g. affordable housing, community facilities) or money for the authority to undertake necessary work. Section 106 monies, by their nature, are mostly for capital works as they are for the provision of infrastructure necessary to mitigate the impact of the development (e.g. junction modifications, school extensions).

1.2.2 Planning obligations effectively are used for three main purposes:

- Prescribe the nature of development (for example, requiring a given portion of housing is affordable)

- Compensate for loss or damage created by a development;
  - Mitigate a development's impact.
- 1.2.3 As part of the planning process, a developer may be required to enter into a legal agreement to provide infrastructure and services on or off the development site, acting as a delivery mechanism for the matters that are necessary to make the development acceptable in planning terms
- 1.2.4 Such agreements can cover almost any relevant issue, acting as a main instrument for placing restrictions on developers, often requiring them to minimise the impact on the local community and to carry out tasks which will provide community benefits, and can include the payment of sums of money, which cannot be secured by planning condition.
- 1.2.5 Examples of types of infrastructure or services that planning obligations can include are:
- Transport infrastructure or services, including new or improvements to existing footpaths, cycle ways, roads and bus services and their associated infrastructure, to link development to surrounding areas and ensure it is accessible by all modes of travel;
  - Affordable and special needs housing (where there is a proven local need);
  - Education facilities to meet any expected shortage in school places arising from the development;
  - Community facilities, including buildings and play or open space, where existing provision is inadequate to provide for the new development;
  - Environmental improvements where necessary to mitigate the impact of a development or integrate it with surrounding areas;
  - Restrictions and obligations on the use of land.
- 1.2.6 The Community Infrastructure Regulations 2010 (CIL) that came in to force on 6 April 2010 set out the statutory tests on what can reasonably be sought under S.106 replacing the circular 05/2005 guidance for all developments. Regulation 122 requires that a planning obligation cannot be taken into account in a decision on a planning application unless it is:
- (i) necessary to make the development acceptable in planning terms;
  - (ii) directly related to the development; and
  - (iii) fairly and reasonably related in scale and kind to the development

1.2.7 This report summarises such obligations secured during the period 2016 to 2018. The intention of the report going forward will be to update the Board on rolling basis.

### **1.3 Summary of section 106 obligations:**

1.3.1 Members will be aware that even prior to the more formalised monitoring arrangements being put in place, planning obligations have been successfully secured on many developments to ensure compliance with policy and mitigate impacts. Most notably in recent years this has allowed for the Council to contribute towards the implementation of the domestic violence refuge and purchase our own temporary accommodation for those most directly in need across the Borough as well as complete projects to renovate the Tonbridge Memorial Gardens and the Town Lock enhancement scheme.

1.3.2 **Annex 1** provides a summary of all obligations secured for years 2016, 2017 and 2018 (to date), including details of the site, relevant planning application and nature of the obligation itself.

### **1.4 Legal Implications**

1.4.1 There is a statutory requirement for local planning authorities to use all of the funding received by way of planning obligations, as set out in individual agreements, in order to make development acceptable in planning terms. Agreements should normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not.

1.4.2 Furthermore, for sites where the threshold applies, planning obligations should not be sought to contribute to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area. Of particular importance, Regulation 123 of the CIL Regulations prevents councils from collecting more than five separate planning obligations for a project or type of infrastructure. After 6 April 2015 the use of pooled financial contributions collected through S106 obligations became limited for all authorities. This highlights the importance of effective ongoing monitoring and efficient use of obligations to directly and successfully mitigate impact.

1.4.3 There has been debate about the exact meaning of 'infrastructure projects or types of infrastructure' although the CIL guidance section of NPPG gives the example of five separate planning obligations for a specific item of infrastructure (e.g. a local school). Generic contributions towards 'education' or 'transport' would be calculated in the same way.

1.4.4 Planning permission granted subject to a s.106 agreement which includes planning obligations for a project or type of infrastructure where the pooling restriction has been exceeded, may be unlawful and subject to challenge.

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

- 1.5.1 Failure to effectively secure planning obligations that successfully mitigate the impact of new development could give rise to unacceptable planning harm arising on an individual or cumulative basis across the Borough.
- 1.5.2 Failure to effectively monitor how and where those planning obligations are secured could give rise to a failure to adhere to the statutory pooling restrictions and could even necessitate the repayment of financial obligations received. Both scenarios would compromise our ability to mitigate impacts in a positive way.

## **1.6 Risk Assessment**

- 1.6.1 It should be recognised that if individual planning permissions are not implemented, then the obligations secured as part of the permission do not come forward. As such, and particularly when linked to the statutory tests that we are required to apply, it is important to understand that planning obligations cannot be seen as a mechanism to fix pre-existing problems or as an opportunity to use developers as an additional revenue stream.
- 1.6.2 Additionally, it should be understood that even once an obligation has been secured through a planning agreement and tied to a permission there is provision within the Act for parties to the agreement to seek formal variations. Commonly this would occur in situations where developers wish to demonstrate that the viability of a scheme has altered over time and we have some limited experience of that happening in certain cases. However, it is equally relevant that in such cases, there would still be a requirement to assess the scheme afresh without the secured obligations and mitigation in place. If it is consequently considered that the impact would be harmful and there was no alternative means of ensuring effective mitigation that could be a justification to refuse to agree a variation.

Background papers:

Nil

contact: Emma Keefe  
Louise Reid

Adrian Stanfield  
Director of Central Services and Monitoring Officer

Annex 1

Application Reference Number	Site Address	Description of Development	Decision Date	Planning Obligation Secured	Details of Receipt and Spend (as applicable)
15/02247/FL	Landfall, Teston Road, Offham	Demolition of existing shed and construction of two detached dwellings with garaging; erection of garage for existing dwelling; and formation of new access from Teston Road	8.01.2016	Affordable housing commuted sum: £10,000	Received, to be allocated
15/02819/FL	West Yaldham Farm	Redevelopment for a mix of light industrial and residential development	15.01.2016	On-site provision of affordable housing units	N/A
16/03534/FL	Former Harrow PH, Maidstone Road, Hadlow	Demolition of existing public house and ancillary buildings, erection of 6no. bungalows and associated works	12.04.2017	Contribution towards public open space provision/enhancement: £18,125	Received, to be allocated
16/03373/FL	133 High Street, Tonbridge	Alterations and extensions to building to create 14 no. 1 and 2 bed apartments at first, second and third floor levels	28.04.2017	Contribution towards public open space provision/enhancement: £43,268	Awaiting receipt, subject to monitoring processes
15/03172/FL	Former World of Pots site, Shipbourne Road, Tonbridge	Demolition of existing buildings and redevelopment to form up to 31 one and two bed retirement apartments for the elderly including communal facilities, access, car parking,	8.06.2016	Affordable housing commuted sum: £213,802  Contribution towards public open space	Received and allocated

Annex 1

		landscaping and additional parking for the George and Dragon Public House		provision/enhancement: £19,854	
15/02817/FL	Old Power Station, Tonbridge	Conversion of The Old Power Station, currently used as a training centre, into 5 no. dwellings and a new building comprising 7 no. dwellings built on the existing rear car park	18.08.2016	Contribution towards public open space provision/enhancement: £28,260  Contribution towards primary education (Slade School): £5,312.16	Awaiting receipt, subject to monitoring processes
16/00505/FL	Area 63 Kings Hill	Erection of a residential development comprising 44 no. dwellings (Use Class C3) with associated access, parking, landscaping and infrastructure	3.11.2016	Contribution towards healthcare improvement provision (local surgeries defined): £49,284	Received, to be forwarded to NHS for allocation
16/00799/FL	82 Goldsmid Road, Tonbridge	Conversion and extension of existing building to create 5 flats	24.10.2016	Contribution towards public open space provision/enhancement: £9,542	Received and allocated
16/02154/FL	Land at Plowenders Close, Addington	Erection of 5 detached bungalows with associated garages, parking, landscaping, engineering operations and new access to Plowenders Close	8.11.2016	Contribution towards public open space provision/enhancement: £18,755	Received, to be allocated
16/02327/FL	Area 2H Peters Village	Residential development of 59 units with associated parking and landscaping	19.12.2016	On site provision of affordable housing units	N/A

Annex 1

16/02920/FL	14A Shipbourne Road, Tonbridge	Proposed 3 storey apartment building (5 x 2 bed units) with associated parking and landscaping	20.12.2016	Contribution towards public open space provision/enhancement: £11,740	Awaiting receipt, subject to monitoring processes
16/03657/FL	New Hythe Lane/Sheldon Way, Larkfield	Erection of 8 x apartments and 4 x terraced properties, parking, associated services, infrastructure, landscaping, ground works and earthworks	19.04.2017	Contribution towards primary education (St Brookfields Infants): £19,944  Contribution towards libraries provision (Larkfield): £576.19	Awaiting receipt, subject to monitoring processes
16/03380/FL	Brunswick Yard, Pound Road, East Peckham	Demolition of existing buildings and residential development comprising 10 no. houses and associated works, parking and minor alterations to the two access points to Pound Road	26.10.2017	Contribution towards public open space provision/enhancement: £41,216	Awaiting receipt, subject to monitoring processes
17/00964/FL	Phoenix House, Forstal Road, Aylesford	Erection of 12 No. 3 storey townhouses on vacant site. 3 No. units to be affordable housing, including change of use status	1.02.2018	Contribution towards libraries (Larkfield) - £48.02/applicable unit;  Contribution towards primary education (St Peters Primary School): £3324/applicable unit;  Contribution towards secondary education (Aylesford Secondary School): £2359.80/applicable unit	Awaiting receipt, subject to monitoring processes

Annex 1

17/01287/FL	2 – 4 High Street, West Malling	Redevelopment to demolish commercial unit to the rear of the site and provide 5 terraced houses and extensions to the existing commercial building to the front of the site	13.02.2018	Contribution towards public open space provision/enhancement: £20,284	Awaiting receipt, subject to monitoring processes
17/02248/OA	Taddington Wood, Bluebell Hill	Outline Application for the erection of 5 dwelling houses and 5 detached garages with associated parking, turning areas and landscaping	13.02.2018	Contribution towards public open space provision/enhancement: £27,546	Awaiting receipt, subject to monitoring processes
17/02468/FL	Teen and Twenty Club, River Lawn Road, Tonbridge	Demolition of existing building and erection of a new 3 storey medical centre incorporating a retail pharmacy, with associated parking and landscaping	21.03.2018	Contribution towards public realm enhancements: £16,000	Awaiting receipt, subject to monitoring processes
17/03106/FL	Car Company, Priory Road, Tonbridge	Demolition of existing warehouses (Use class B1) and erection of 14no. 3 bed dwelling with 16no. parking spaces (Use class C3)	14.03.2018	Contribution towards public open space provision/enhancement: £43,069  Contribution towards primary education: £46,536	Awaiting receipt, subject to monitoring processes
18/00273/FL	Former Rose and Crown PH, East Peckham	Erection of 8 No. two storey terraced dwellings and associated car parking and landscaping	15.06.2018	Contribution towards public open space provision/enhancement: £30,086	Awaiting receipt, subject to monitoring processes

Annex 1

18/00423/FL	2 – 12 Avebury Avenue, Tonbridge	Alterations, extension and change of use of the existing building to a mixed use including 14 no. apartments, gym and commercial space	27.07.2018	Contribution towards public open space provision/enhancement: £33,407  Contribution towards libraries £672.22	Awaiting receipt, subject to monitoring processes
17/02635/FL	Lyons Crescent, Tonbridge	Demolition of existing buildings and residential redevelopment comprising 14 apartments	3.08.2018	Contribution towards public open space provision/enhancement: £33,863	Awaiting receipt, subject to monitoring processes

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### PLANNING and TRANSPORTATION ADVISORY BOARD

13 November 2018

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Matters for Information

### 1 LOCAL PLAN UPDATE

**Summary: This report provides an update on the Regulation 19 consultation exercise and sets out the next stages in the preparation of the Local Plan.**

#### 1.1 Background

- 1.1.1 Following the decision of Full Council on the 12<sup>th</sup> September 2018, the Local Plan public consultation exercise required by Regulation 19 of the Town and Country Planning (Local Plans)(England) Regulations began on Monday 1<sup>st</sup> October for a period of 6 weeks.
- 1.1.2 The deadline for responding was extended by one week from the 12<sup>th</sup> to the 19<sup>th</sup> November during the first week of the consultation exercise. This was in order to ensure that all of those contacted about the consultation would have the minimum 6 weeks to respond and also to respond positively to requests from some Parish Councils that a short extension would be welcomed. All of those who were initially contacted were advised of the extension.
- 1.1.3 Two briefings were arranged for Parish and Town Council's on the 3<sup>rd</sup> and 4<sup>th</sup> October at Kings Hill and Tonbridge Castle to explain the purpose of the consultation and how local councils can assist their communities in responding. Hard copies of the consultation documents were provided together with some supporting information. Both briefings were well attended. Those councils unable to attend had their copies delivered.
- 1.1.4 Two Drop In sessions were held on the 15<sup>th</sup> and 17<sup>th</sup> October at the council offices at Kings Hill and Tonbridge Castle between 9am and 8pm. These events were also well attended. The display panels illustrating the Local Plan and the purpose of the consultation used at the Drop Ins were also made available for local councils and community groups for use at separate events.

#### 1.2 Consultation Responses received so far

- 1.2.1 At the time of writing (29.10.18) 615 submissions had been received via the website, email or letter. The majority of these are raising objections to the strategic site at Borough Green.
- 1.2.2 The on-line response form, which has been designed in accordance with the Planning Inspectorate's guidance, has proved to be unpopular with users particularly for those wishing to make simple comments. In response, a simplified form has been prepared and was added to the website on Friday 26<sup>th</sup> October.
- 1.2.3 If the current consultation is similar to the exercise carried out for the Regulation 18 consultations in 2016, we can expect most of the responses to be received during the last week of the consultation.

### **1.3 Next Steps**

- 1.3.1 Once the consultation has closed on the 19<sup>th</sup> November officers will prepare the documents for submission to the Secretary of State. It is intended to submit the Local Plan to the Secretary of State before Christmas, but if this is not possible then before the 24<sup>th</sup> January 2019.

### **1.4 Legal Implications**

- 1.4.1 There are no legal implications arising directly from this information report.

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

- 1.5.1 There are no financial implications arising directly from this information report.

### **1.6 Risk Assessment**

- 1.6.1 The risks associated with not securing an up to date and robust Local Plan at the earliest practicable opportunity have been set out in previous reports to the Board.
- 1.6.2 Failure to submit the Local Plan before the 24<sup>th</sup> January 2019 could result in significant delays to the process.

Background papers:

Nil

contact: Ian Bailey  
Louise Reid

Adrian Stanfield  
Director of Central Services and Monitoring Officer

# Agenda Item 9

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

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# Agenda Item 10

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

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

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# Agenda Item 11

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

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