

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

22 June 2020

To: MEMBERS OF THE CABINET  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Cabinet to be held online via Microsoft Teams on Tuesday, 30th June, 2020 commencing at 7.30 pm. Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

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*The minutes of meetings of Advisory Panels and Other Groups are attached, any recommendations being identified by an arrow.*

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*The purpose of the report is to advise Cabinet of the financial impacts to the Council to the end of May; and then to begin to outline the scale of the potential longer term impact of the Covid-19 pandemic, in broad terms, on the Council's finances, the Medium Term Financial Strategy and Savings and Transformation Strategy and, in turn, savings and transformation contributions required to balance the budget.*

7. Corporate Plan - Addendum 41 - 46

*This report provides an update on recent activity in response to Coronavirus Emergency, and references activity in accordance with the Corporate Plan – Addendum, which will allow Cabinet to review progress at a strategic level.*

8. Development Management - Processes and Procedures 47 - 56

*Item PE 20/4 referred from Planning and Transportation Advisory Board minutes of 3 March 2020*

*Deferred from Cabinet of 3 June 2020 as per Cabinet Decision [D200034CAB](#)*

#### **Matters submitted for Information**

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

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12. Urgent Items 69 - 70

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

Councillor N J Heslop, (Leader) and (Economic Regeneration)  
Councillor R P Betts, (Street Scene and Environment Services)  
Councillor M A Coffin, (Finance, Innovation and Property)  
Councillor D Lettington, (Strategic Planning and Infrastructure)  
Councillor P J Montague, (Housing)  
Councillor M R Rhodes, (Community Services)

Members of the Council who are not members of the executive may attend meetings of the Cabinet. With the agreement of the Leader, any such Member may address the Cabinet on any item on the agenda but may not vote.

Apologies for absence

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Declarations of interest

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### CABINET

Wednesday, 3rd June, 2020

**Present:** Cllr N J Heslop (Chairman), Cllr R P Betts, Cllr M A Coffin, Cllr D Lettington, Cllr P J Montague and Cllr M R Rhodes

Councillors Mrs J A Anderson, M C Base, Mrs S Bell, M D Boughton, V M C Branson, A E Clark, Mrs T Dean, P M Hickmott, M A J Hood, F A Hoskins, S A Hudson, D W King, K King, Mrs A S Oakley, J L Sergison, T B Shaw and N G Stapleton were also present pursuant to Access to Information Rule No 23.

### PART 1 - PUBLIC

#### **CB 20/35 DECLARATIONS OF INTEREST**

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

#### **CB 20/36 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Cabinet held on 13 February 2020 be approved as a correct record and signed by the Chairman.

#### **CB 20/37 MINUTES**

**RESOLVED:** That the Minutes of the Extraordinary meeting of Cabinet held on 19 May 2020 be approved as a correct record and signed by the Chairman.

### DECISIONS TAKEN IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION (RESPONSIBILITY FOR EXECUTIVE DECISIONS)

#### **CB 20/38 CAR PARKING FEES AND CHARGES - OUTCOME OF PUBLIC CONSULTATION**

Decision Notice D200029CAB

#### **CB 20/39 ON STREET PARKING FEES AND CHARGES**

Decision Notice D200030CAB

#### **CB 20/40 CORPORATE STRATEGY - FIRST YEAR ADDENDUM**

Decision Notice D200031CAB

**CB 20/41 REVENUE AND CAPITAL OUTTURN 2019-20**

Decision Notice D200032CAB

**CB 20/42 STRATEGIC RISK REGISTER**

Decision Notice D200033CAB

**CB 20/43 DEVELOPMENT MANAGEMENT - PROCESSES AND PROCEDURES**

Decision Notice D200034CAB

**CB 20/44 PROPOSED REVISION TO THE JOINT TRANSPORTATION BOARD AGREEMENT**

Decision Notice D200035CAB

**MATTERS SUBMITTED FOR INFORMATION****CB 20/45 MATTERS REFERRED FROM ADVISORY BOARDS**

The notes of the meetings of the following Advisory Boards were received, any recommendations contained therein being incorporated within the decisions of the Cabinet reproduced at the annex to these Minutes.

Street Scene and Environment Services Advisory Board of 11 February 2020

Communities and Housing Advisory Board of 25 February 2020

Planning and Transportation Advisory Board of 3 March 2020

Street Scene and Environment Services Advisory Board of 5 March 2020

**RESOLVED:** That the report be received and noted.

**CB 20/46 MATTERS REFERRED FROM ADVISORY PANELS AND OTHER GROUPS**

The Minutes of the meetings of the following Advisory Panels and other Groups were received, any recommendations contained therein being incorporated within the decisions of the Cabinet reproduced at the annex to these Minutes.

Tonbridge Forum of 24 February 2020

Joint Transportation Board of 9 March 2020

**RESOLVED:** That the report be received and noted.

**CB 20/47 DECISIONS TAKEN UNDER EMERGENCY PROVISIONS**

Details of the Decisions taken in accordance with Emergency Provisions were presented.

**RESOLVED:** That the report be received and noted.

**CB 20/48 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

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

**DECISIONS TAKEN IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION (RESPONSIBILITY FOR EXECUTIVE DECISIONS)****CB 20/49 CORONAVIRUS PANDEMIC - CONTRACT ARRANGEMENTS WITH TONBRIDGE AND MALLING LEISURE TRUST**

Decision Notice D200036CAB

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

The meeting ended at 9.05 pm

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# Agenda Item 4

The minutes of meetings of Advisory Panels and Other Groups are attached, any recommendations being identified by an arrow.

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### JOINT TRANSPORTATION BOARD

Monday, 8th June, 2020

**Present:** Mr M Balfour (Chairman), Cllr D Lettington (Vice-Chairman), Cllr R P Betts, Cllr V M C Branson, Cllr D A S Davis, Cllr N G Stapleton, Cllr M Taylor, Mrs T Dean, Mrs S Hohler, Mr R Long, Mr M Payne and Mr H Rayner

Councillors Mrs J A Anderson, M D Boughton, M A Coffin, N J Heslop, M A J Hood, K King, J R S Lark, Mrs A S Oakley, M R Rhodes, H S Rogers, J L Sergison, T B Shaw and Mrs M Tatton were also present pursuant to Council Procedure Rule No 15.21. Mrs W Palmer was also present on behalf of the Kent Association of Local Councils (KALC)

### PART 1 - PUBLIC

#### **JTB 20/7 DECLARATIONS OF INTEREST**

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

#### **JTB 20/8 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Joint Transportation Board held on 9 March 2020 be approved as a correct record and signed by the Chairman.

#### **JTB 20/9 PARKING ACTION PLAN - PHASE 12**

Decision Notice D200037MEM

The report of the Director of Street Scene, Leisure and Technical Services provided details of 20 schemes to be taken forward for investigation and informal consultation under Phase 12 (20/21) of the Parking Action Plan. Details of the schemes were set out in Annex 1 to the report while Annex 2 identified a list of locations to be considered in future phases of the Parking Action Plan. It was noted that the timescale for investigation and informal consultation on the schemes identified within Phase 12 would be influenced by the restrictions placed on the Parking Team by the Covid-19 emergency and current workload, which included a significant amount of work relating to the completion of Phase 11 works.

**RECOMMENDED:** That

- (1) the list of locations identified in Annex 1 to the report be taken forward for investigation and informal consultation as Phase 12 of the Parking Action Plan; and
- (2) the list of locations identified in Annex 2 to the report be held on a list for the next cycle of the Phased Parking Action Plan.

**MATTERS SUBMITTED FOR INFORMATION****JTB 20/10 TONBRIDGE AND MALLING HIGHWAYS WORK PROGRAMME**

The report of KCC Highways, Transportation and Waste summarised schemes programmed for delivery in 2019/20 and provided an update on the Road, Footway and Cycleway Renewal and Preservation Schemes (Appendix A), Drainage Repairs and Improvements (Appendix B), Street Lighting (Appendix C), Transportation and Safety Schemes (Appendix D), Developer Funded Works (Appendix E), Bridge Works (Appendix F), Traffic Systems (Appendix G) and the Combined Member Grant programme (Appendix H).

**RESOLVED:** That the report be received and noted.

**JTB 20/11 URGENT ITEMS**

The Chairman announced he had accepted an urgent item of information. In accordance with s100B(4)(b) of the Local Government Act 1972, he advised that he considered the matter to be urgent due to the need to provide advance warning of the imminent commencement of major works in High Street, Tonbridge and to provide clarity to the Government's recent announcement of the Covid-19 Emergency Active Travel Fund.

**JTB 20/12 COVID-19 EMERGENCY**

The Tonbridge and Malling Acting District Manager, Kent Highways Services, reported that, in order to benefit from reduced traffic movement during the Covid-19 emergency, Southern Gas Networks (SGN) would commence works in High Street, Tonbridge on 14 June and that it was anticipated that the works would be completed by 21 September 2020. He outlined arrangements for road closures, diversions and signage to reduce congestion and provided details of timescales for other schemes within Tonbridge which would be affected by the earlier than anticipated commencement of the SGN works.

With particular reference to Tonbridge, County Councillor M Payne provided an update on potential funding opportunities for traffic calming, cycle lanes and speed limit schemes across the County following the



Government's announcement of the Covid-19 Emergency Active Travel Fund. He advised that a broad set of criteria based on 5 themes (carriageway repurposing for cycling and pedestrians; safer journeys to school through variable speed limits on school streets; town-wide 20mph schemes; liveable neighbourhoods to encourage travel on foot; and recreational cycling and walking schemes) had informed the bid submitted by the 5 June deadline in respect of the first tranche of funding for trial schemes (£1.6M). He outlined the timescale and constraints on applications for the second tranche of funding and asked that all suggestions for specific improvement schemes be submitted to Kent Highways Services for further evaluation as soon as possible to meet the deadline of 31 July 2020.

**RESOLVED:** That the report be received and noted.

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

#### **JTB 20/13 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 8.43 pm

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## **TONBRIDGE AND MALLING BOROUGH COUNCIL**

### **PARISH PARTNERSHIP PANEL**

**Thursday, 11th June, 2020**

**Present:** Cllr N J Heslop (Chairman), Cllr M A Coffin (Vice-Chairman), Cllr Mrs J A Anderson, Cllr R P Betts, Cllr R W Dalton, Cllr P M Hickmott, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Lettington, Cllr B J Luker, Cllr M R Rhodes and Cllr M Taylor.

Together with Addington, Aylesford, Borough Green, Burham, Ditton, East Malling and Larkfield, East Peckham, Hadlow, Hildenborough, Platt, Plaxtol, Ryarsh, Shipbourne, Trottiscliffe, West Peckham Parish Councils and County Councillors Mrs T Dean, Mr M Balfour, Mrs S Hohler and Mr H Rayner.

Councillors D J Cooper, P J Montague, Mrs A S Oakley, W E Palmer, H S Rogers, J L Sergison, T B Shaw and N G Stapleton were also present pursuant to Council Procedure Rule No 15.21.

An apology for absence was received from Councillor Mrs C B Langridge

### **PART 1 - PUBLIC**

#### **PPP 20/9 CHAIRMAN ANNOUNCEMENT(S)**

The Chairman welcomed Members to the first virtual meeting of the Parish Partnership Panel and, in his role as Leader of the Council, thanked the parish councils for their contribution in providing community support and help to ensure vulnerable residents received appropriate assistance and information during this challenging time.

#### **PPP 20/10 MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 6 February 2020 be approved as a correct record and signed by the Chairman.

#### **PPP 20/11 UPDATE ON ACTION IDENTIFIED IN THE LAST MINUTES**

The Chairman advised that an update would be provided on the Public Consultation on Planning Applications (Minute Number PPP 20/4) and comments on the proposals for development management were invited from the Parish Councils.

It was explained that Cabinet on 3 June 2020, had deferred the recommendations of the Planning and Transportation Advisory Board of 3 March (as set out in [PE 20/4](#)) until the 30 June in order to allow for discussion at the Parish Partnership Panel.

## **PPP 20/12 DEVELOPMENT MANAGEMENT - PROCESSES AND PROCEDURES**

### **(PPP 20/4 – Public Consultation on Planning Applications)**

The Cabinet Member for Strategic Planning and Infrastructure (Councillor David Lettington) provided an update on the development management proposals, which were intended to ensure parity and improve efficiency and effectiveness for all parties in the planning system.

The Kent Association of Local Councils (KALC) (Tonbridge and Malling) was thanked for compiling comments received from parish councils as these would aid discussions in advance of the Cabinet meeting on 30 June. In response KALC expressed appreciation to the Cabinet for deferring the matter and indicated that parishes remained keen to share their concerns.

It was recognised that the proposals represented some challenges for parish councils, who might have to adapt their current practices to adopt the changes. Unfortunately, a planned period of engagement with the parish councils had been delayed due to the coronavirus pandemic. However, it was reported that Planning Officers would undertake engagement with parishes, developers and agents via a survey and webinar as soon as possible.

Parishes reiterated concerns that the Borough Council would not accept representations on applications received after a 21 day notice period from any party not included in the statutory (technical) consultees definition, such as parish councils. It was felt that insufficient weight would be given to the response of the parish council and, as many of them followed a 28 day parish council meeting cycle, it would be difficult to meet the proposed 21 day response deadline.

A number of other points were raised and related to:

- Clarification as to the definition of the 21 day period and whether Bank Holidays were excluded;
- The perceived changed working relationship between the Borough and Parish Councils;
- Lack of hard copy for significant and large planning applications; and
- Any flexibility to extend the 21 day response deadline at the request of individual parish councils when required.

In response, the Cabinet Member reiterated it was important that all parties were treated equally. In addition, parish councils were

encouraged to register to receive email notifications when a planning application was lodged and validated on the planning portal (Public Access). This would give advance warning that a response would be required and would assist parishes in meeting the 21 day response deadline. The Panel were also assured that the views of parish councils were taken very seriously.

In summing up, the Chairman recognised that a number of significant points had been raised and these would be reflected upon in advance of Cabinet on 30 June. In his role as Leader of the Council, he also committed to meeting with KALC, and potentially a small number of parish representatives, to discuss these points further.

Any outcomes arising from the period of engagement with stakeholders would be considered further by Cabinet on 30 June 2020.

### **PPP 20/13 RESPONSE TO THE CORONAVIRUS PANDEMIC AND THE WAY FORWARD**

The report of Management Team, considered by Extraordinary Cabinet on 19 May, provided a strategic overview of the Borough Council's response to the national emergency, the impacts on service delivery, the introduction of priority initiatives and financial impacts. A framework for the development of a future recovery was also considered.

As part of this future recovery plan, the Cabinet of 3 June had approved a one-year addendum to the Borough Council's Corporate Strategy. This would provide a framework within which to consider a wide range of issues in response to the Covid-19 pandemic.

Particular reference was made to the Climate Change Strategy and it was reported that the consultation period had been extended until the end of June. The responses submitted during the earlier consultation period had been received and recorded.

The Chief Executive was pleased to report that the Borough Council had been well prepared for remote working, with 90% of staff working from home where possible. In addition, a number of staff had been redeployed to support the work of the Community Support Hub, which had been established to support vulnerable residents by providing essential food supplies and telephone befriending services. The Borough Council had worked with parish councils, community groups and voluntary organisations to identify and signpost to long term support networks.

Reference was made to the financial support distributed to local businesses via rate relief and the delivery of Small Business Grants and Retail, Hospitality and Leisure Grants. It was also reported that there had been 160 applications to the Discretionary Business Grant Scheme.

These applications were being assessed and funds would be allocated as soon as possible.

The financial pressures faced by the Borough Council continued to be significant and extremely challenging, with a loss of income of circa £2m - £5m predicted. A number of options related to the Medium Term Financial Strategy and the Savings and Transformation Strategy would be reviewed by Cabinet on 30 June.

The Borough Council recognised the uncertainty around how long lockdown measures would continue. However, it was important for the authority to plan for the future and this would be done within the themes of 'review, recover and reorient'. It was noted that Kent County Council had statutory responsibility to establish a countywide recovery framework.

As a first step towards recovery, retail centres and Tonbridge High Street would reopen on Monday 15 June and the Borough Council was providing guidance to traders. In addition the Borough Council was raising awareness via a communication campaign in the local press, on social media and messaging from the Leader to residents. Posters and signage reminding customers about social distancing would be available to businesses. A number of High Street Support Officers had been engaged to patrol Tonbridge High Street and monitor the retail centres in Borough Green, Snodland and West Malling and to engage with customers and businesses offering reassurance.

The Parish Councils thanked Borough Council officers for continuing to work during the lockdown and for keeping essential services operating. It was hoped that lessons could be learned from the early days of the crisis, especially related to communication, and future emergency planning refined to take account of potential improvements.

#### **PPP 20/14 KENT COUNTY COUNCIL SERVICES UPDATE**

The County Councillor for Malling North (Councillor Mrs Hohler) outlined the County Councils response to the coronavirus pandemic and the measures implemented since the introduction of lockdown in March 2020. A detailed summary was attached to the Notes for information.

Particular reference was made to the establishment of Kent Together which had provided support to a significant number of vulnerable people and demonstrated how different organisations and communities across Kent could work together to help those most in need. Close partnership working with the NHS, Districts, voluntary and community organisations, schools and providers had been essential as had the work delivered by the Kent Resilience Forum.

It was also reported that data showed that Kent had the lowest percentage of care homes reporting a coronavirus outbreak, at 28.7%, despite having the largest number of facilities in the South East.

Kent County Council's priority had been the ongoing provision of as many public services as it had been possible to maintain and the safety and wellbeing of staff, service users and residents.

**PPP 20/15 TONBRIDGE AND MALLING BOROUGH COUNCIL SERVICES UPDATE**

The Chairman, in his role as Leader of the Council, advised that key points of relevance to Tonbridge and Malling had been covered elsewhere on the agenda, as the response and recovery related to Covid-19 continued to represent a significant challenge for the Borough Council.

The meeting ended at 9.20 pm

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### CABINET

30 June 2020

#### Report of the Director of Street Scene, Leisure and Technical Services and the Chief Financial Services Officer

#### Part 1- Public

#### Matters for Recommendation to Council

### 1 TONBRIDGE & MALLING LEISURE TRUST

**A report seeking approval from Full Council for the establishment of a budget provision in 2020/21 in respect of the Council's Leisure Management Arrangements with the Tonbridge and Malling Leisure Trust.**

#### 1.1 Introduction

1.1.1 At the meeting of Cabinet on 3 June under part 2 of the agenda, Members agreed 'in principle' support for the Tonbridge and Malling Leisure Trust (TMLT) during the pandemic. Cabinet resolved under Decision Notice D200036CAB that:

- 1) the potential financial implications for the Tonbridge and Malling Leisure Trust as a result of the government's directions in response to the pandemic be noted;
- 2) the written reassurance of the Management Team, in liaison with the Leader and Deputy Leader, to the Tonbridge and Malling Leisure Trust Board be noted;
- 3) the proposal that Management Team work with the Tonbridge and Malling Leisure Trust to set out potential options to a future meeting of the Communities and Housing Advisory Board be endorsed; and
- 4) the Management Agreement with the Tonbridge and Malling Leisure Trust be reviewed with details presented to a future meeting.

1.1.2 In considering the report, Members acknowledged the significant investment that has been made in the facilities, in particular Larkfield Leisure Centre, and of the importance of the provision of health and leisure services to our residents.

1.1.3 As the country emerges in due course from the pandemic, it is highly likely that services such as these will be essential for general health and wellbeing. Indeed, it is encouraging to note that since its re-opening in mid-May within the tight social distancing and health and safety requirements, Poult Wood Golf

Centre has been fully booked on a daily basis with demand for tee-times exceeding supply.

## **1.2 Progress**

- 1.2.1 Since the meeting of Cabinet on 3 June, work has progressed with TMLT to assess the impacts in the format set out in the previous report. This needs to be undertaken on an incremental basis taking on board the 'moving' situation in terms of re-opening of facilities and any reactive and/or proactive action that might need to be taken in response to further government direction or health and safety issues.
- 1.2.2 It is disappointing that TMLT as a leisure operator is not eligible for government support (other than the job retention scheme) as things currently stand. This is of serious concern and I believe it is essential that in liaison with TMLT the Council lobbies government to address this extreme situation.
- 1.2.3 Given the stark financial challenges that TMLT face in maintaining and planning to re-open the Council's facilities to the public, and the risks to our facilities and services if we do not do this, in line with guidance from the Cabinet Office and the Local Government Association it is important that incremental payments are made to assist TMLT in remaining solvent
- 1.2.4 Members will note from the report of the Director of Finance & Transformation elsewhere on the agenda that the broad assessment in 2020/21 is that a sum of circa £1m may be required to support TMLT in maintaining the Council's own facilities during the pandemic and preparing them for re-opening and operation in the manner required through government direction. It is important to stress that this figure is only a broad estimate, as we will not be able to properly assess the full impact for some time. Nevertheless, a budget does need to be set.
- 1.2.5 Through the 'open book' process we have adopted in liaison with the Trust's senior management, the Chief Financial Services Officer and the Head of Street Scene and Leisure have together assessed the first interim payments that need to be made to TMLT in respect of the months of March and April 2020. This first instalment amounts to a total of £147,334.
- 1.2.6 These figures have been shared with the Leader, Cabinet Member for Finance, Innovation and Property and the Chairman of Overview & Scrutiny in advance of this report for the purposes of transparency and challenge. Payment of the sum detailed above has been made to TMLT with the agreement of the Members listed in advance of this meeting given the imperative of solvency.
- 1.2.7 Cabinet will appreciate there is currently no budget for these payments. Through this report, therefore, it is requested that Cabinet recommend to Full Council that a budget of £1m is set aside against which validated claims from TMLT can be paid. As previously explained, validation through an open book process will be

undertaken by the Chief Financial Services Officer and the Head of Street Scene and Leisure.

### **1.3 Legal Implications**

- 1.3.1 Should the work in progress mentioned in the preceding paragraph result in any changes to the contractual arrangements these must be in accordance with the change mechanisms agreed at the time the contract was formalised and in addition comply with the Public Contracts Regulations 2015 and the Public Concessions Regulations 2016.

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

- 1.4.1 It is important to stress that it is not in the Council's financial interests, nor that of its taxpayers, for TMLT as the Council's contractor to fail as a consequence of the measures imposed by the government.
- 1.4.2 The Council maintains a prudent level of reserves to provide a safety net for unforeseen or other circumstances. The Robustness of Estimates and Adequacy of Reserves statement that the Council's Chief Financial Officer is required to produce under the local Government Finance Act 2003 to support Members in considering the Budget Setting report, lists as an example of why the Council needs to retain a minimal level of reserves "*closure of major trading area e.g. leisure centre for uninsured works*". The Council has resolved to hold a minimum level of general revenue reserve of £3 million in order to provide for a host of potential financial and operational risks, including the one mentioned.

### **1.5 Risk Assessment**

- 1.5.1 The Council and its contractors must ensure that they follow published guidance and directions from government.
- 1.5.2 If TMLT are unable to continue as a going concern, the financial implications falling to the Council are significant and could put the Council's overall financial position under even greater pressure. In addition, the services to the public will be at risk at a time when health and wellbeing could not be more important.

### **1.6 Equality Impact Assessment**

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

### **1.7 Policy Considerations**

- 1.7.1 Procurement
- 1.7.2 Community
- 1.7.3 Business Continuity/Resilience

1.7.4 Healthy Lifestyles

**1.8 Recommendations**

1.8.1 Cabinet is requested to **RECOMMEND** to Full Council that a supplementary budget of £1m is established in 2020/21 in respect of the Council's Leisure Management Arrangements; and

1.8.2 the Council in liaison with the Leisure Trust lobbies Government for direct financial support.

Background papers:

Nil

contact:

Neil Lawley  
Darren Lanes

Robert Styles

Director of Street Scene, Leisure and Technical Services

Neil Lawley

Chief Financial Services Officer

## TONBRIDGE & MALLING BOROUGH COUNCIL

### CABINET

30 June 2020

#### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Executive Non Key Decisions

#### 1 COVID-19 AND IMPACT ON MEDIUM TERM FINANCIAL STRATEGY

The purpose of the report is to advise Cabinet of the financial impacts to the Council to the end of May; and then to begin to outline the scale of the potential longer term impact of the Covid-19 pandemic, in broad terms, on the Council's finances, the Medium Term Financial Strategy and Savings and Transformation Strategy and, in turn, savings and transformation contributions required to balance the budget.

#### 1.1 Introduction

1.1.1 As Cabinet is aware, the Medium Term Financial Strategy (MTFS) covers both revenue and capital budgets over a rolling ten-year period, and it is this Strategy that underpins the budget setting process each year and over the strategy period. The aim of the Strategy is to give us a realistic and sustainable plan that reflects the Council's priorities. The MTFS sets out the high level objectives the Council wishes to fulfil over the agreed time span. These are:

- To achieve a **balanced revenue budget** that delivers the Council's priorities by the end of the strategy period.
- To retain a **minimum of £3.0m** in the General Revenue Reserve by the end of the strategy period.
- Seek to set future increases in council tax having regard to the **guidelines** issued by the Secretary of State.
- Continue to **identify efficiency savings** and **opportunities for new or additional income sources** and to **seek appropriate reductions in service costs** in delivery of the Savings and Transformation Strategy approved by Members.
- Subject to there being sufficient resources within the capital reserve, set a **maximum 'annual capital allowance'** each year as part of the budget setting process for all new capital schemes (currently set at £250,000 from

the Council's own resources) and give priority to those schemes that generate income or reduce costs.

- 1.1.2 The MTFs sets out, not only the projected budgets for the period, but also the levels of council tax that are projected to be required to meet the Council's spending plans. Underneath the Strategy for the budget setting year sits detailed estimates formulated in conjunction with Services taking into account past outturn, current spending plans and likely future demand levels / pressures.

## **1.2 Managing the Financial Challenges Pre Covid-19 Pandemic**

- 1.2.1 The Council has for many years been working to address the significant financial challenge faced following the 2007 banking crisis and the subsequent Government's budget deficit reduction programme which resulted in reductions in the financial support offered to local government. Over this period our MTFs has proved to be resilient allowing the financial pressures likely to confront us to be addressed in a measured and controlled way, but with ever increasing pressure was becoming progressively more difficult.
- 1.2.2 When setting the budget for 2020/21 in February 2020, projections at that time suggested that there was a funding gap between expenditure and income of circa £320,000. This 'gap' was translated into two savings and transformation contributions of £20,000 and £300,000 to be achieved by the start of the year 2021/22 and 2024/25 respectively.
- 1.2.3 Members might be forgiven for thinking that, the future Spending Review, Fair Funding Review and Business Rates Reforms aside, we were in 'touching distance' of 'balancing the books' having identified cost savings / generated additional income of circa £4.5m over a challenging and protracted period and some difficult choices made.
- 1.2.4 Progress made in addressing the funding gap now is seriously overshadowed and overtaken by recent events and without significant additional government grant funding over that received to date (£1,356,890), the Covid-19 pandemic, and measures introduced in response, will inevitably have a serious adverse impact on the Council's finances and reserve balances.
- 1.2.5 Accordingly at its extraordinary meeting on 19 May (D200028CAB), Cabinet resolved that:
- for the time being and until the overall impact can be better assessed, the principle of an 'essential spend only' policy in relation to the Borough Council's budget, as imposed by Management Team, be endorsed.*
- 1.2.6 How serious the impact might be is discussed in more detail below.

### 1.3 Covid-19 Pandemic Impact so far

- 1.3.1 In the latter part of the year 2019/20 the Covid-19 pandemic commenced its profound impact across service areas, businesses and the wider community; testing the Council's business continuity planning arrangements.
- 1.3.2 It is safe to say that the pandemic will have a significant adverse impact on the Council's finances and reserve balances and, in turn, on the scale and timing of the savings and transformation contributions required to 'balance the books'.
- 1.3.3 This is primarily as a result of a marked reduction in sources of income (council tax receipts, business rates, fees and charges, rental income and investment income), but there are also unbudgeted costs to be met, both time limited and ongoing, e.g. setting up and operation of community hub facilities and increase in temporary accommodation costs.
- 1.3.4 **To the end of May**, for Members' information the Council has incurred, or committed to, the following costs as a direct result of Covid-19 which clearly were not budgeted for:

	<b>Period Ended May £</b>	<b>Projected Spend 2020/21 £</b>
Temporary Accommodation	16,150	75,000
Parks – security and additional litter collections	12,100	20,000
Community Hub / Food Supplies	66,500	85,000
Additional staff resources	7,850	30,000
IT equipment and software	41,750	60,000
Business Advice Service (Covid-19 hotline)	5,000	5,000
Hospital Discharge Scheme	10,000	10,000
Printing, postage, stationery, etc.	4,050	15,000
Contingency (incl Health & Safety, PPE, etc.)		50,000
<b>Total</b>	<b>163,400</b>	<b>350,000</b>

- 1.3.5 At its meeting on 3 June under a Part 2 report, Cabinet also resolved to support the Tonbridge & Malling Leisure Trust (a not for profit organisation) for the maintenance and operation of the **Council's leisure facilities** during the pandemic, given that TMLT is not eligible for government support (other than the job retention scheme) as things currently stand. Although we have not yet 'bottomed out' the fine detail of any support the Council will give, in broad terms this is factored into the financial planning. Bearing in mind that under the concession arrangement TMLT's normal income from fees and charges is circa £7m which covers the running costs (many of which are fixed) and staffing costs of the various facilities; the shortfall is going to be significant even after TMLT has defrayed as many of these costs that it can. This is of serious concern and is a

matter that the Director of Street Scene, Leisure and Technical Services raises in a separate report elsewhere on the agenda, recommending that the Council, in liaison with TMLT, lobbies government for direct financial support. In the meantime however, to preserve the integrity of the Council's facilities and to ensure that valued services can be opened up to the public in due course, officers from the Council and TMLT continue to work together on an 'open book' basis ensuring that costs are being mitigated wherever possible. As mentioned, a separate report on this agenda from the Director of Street Scene, Leisure and Technical Services refers, and further information will be provided to the Communities and Housing Advisory Board in due course.

- 1.3.6 In terms of income foregone, this can be broken down into a number of different categories as set out in paragraph 1.3.3 above. **As at the end of May**, the actual or estimated 'income foregone' compared to profiled budget is as follows:
- Fees and charges (primarily car parking income) £704,600
  - Investment income £25,000
  - Rental income £14,800
- 1.3.7 Council tax and business rates are more complex given that the Borough Council is the billing authority and collects on behalf of other preceptors. **At the end of May**, council tax collection was £775,000 below the profiled expectation (of which our share is £111,800). This is primarily as a result of deferral of instalments which we have agreed with taxpayers. It is of course hoped that this deferred income will still be collected in due course; but inevitably when the furlough schemes unwind and any economic impacts emerge, it may be the case that some of this debt, and indeed ongoing debt, becomes far more difficult to collect. The council tax base for 2020/21 also assumed a certain level of growth in housing numbers during the course of the year. The likelihood is that the housing build trajectory will be pushed back and this coupled with the likely increase in council tax support claimants will mean a shortfall in the tax base, and associated council tax receipts, at year end.
- 1.3.8 In a similar way, **at the end of May**, business rate collection was £900,000 below the profiled expectation primarily due to deferral of instalments (of which our share is £360,000). As Cabinet is aware, the business rate retention scheme is complex.
- 1.3.9 Projecting the income 'loss' forward to the end of the financial year will be dependent on the severity of the recession and the speed of recovery. In 2020/21 we estimate that the range of income lost/foregone will be between £4m and £5m; and depending on the scenario could continue to impact for a further two financial years. This latter point is picked up in the 'Looking Ahead' section below.
- 1.3.10 As previously reported, to date **two tranches of 'emergency' funding** have been provided by the government. The first tranche was £40,538 and the second



tranche £1,316,352 giving a total allocation of £1,356,890. No further tranches of funding have been indicated by government to date, although along with all local authorities we continue to lobby for it through a variety of forums.

## 1.4 Looking Ahead

- 1.4.1 We will not know the full extent of the impact on the Council's finances and reserve balances for some time. Much will depend on how quickly the recovery is, whether there is a second 'spike' which reignites some of the measures; and also the extent of the cultural and behavioural changes in society brought about by the response to the pandemic.
- 1.4.2 **That said, it is probably safe to say that unless there are further significant tranches of funding provided by the government above the £1.357m received, our reserves and balances will be depleted such that the scale and timing of savings targets set out in the Medium Term Financial Strategy will be stark and of serious concern.**
- 1.4.3 Notwithstanding the uncertainty surrounding the extent of the impact, we still need to plan ahead as best we can.
- 1.4.4 At the start of the crisis the indicative 'ballpark' figures we shared with both government and Members were a projected shortfall in income of between £3m and £5m and increased costs of £350,000 (excluding support for TMLT) in 2020/21, recognising these were our initial best guesses and would undoubtedly change. As mentioned at paragraph 1.4.1, the scale of the adverse impact beyond 2020/21 is very much dependent on the speed and extent of the recovery.
- 1.4.5 Cabinet quickly agreed a policy of "*essential spend only*" at its extraordinary meeting on 19 May in order to protect our financial position for as long as possible. This is a critical decision that has already been made and a 'best guess' at this point, by pulling back expenditure which is not deemed to be essential during the crisis together with the 'intelligence' gained from the 2019/20 outturn, is that we should be able to save circa £500,000. It is important that every pound is counted to enable the stability of our financial position going forward.
- 1.4.6 It is not my intention to produce a detailed 'revised' budget for Member approval at this point taking on board these matters. Budget preparations for the 2021/22 financial year traditionally commence towards the end of the Summer and as always will include as part of that process an update/revision to the estimates for 2020/21 (shown as the Revised Estimate in our Budget book). Management Team will, in the meantime, monitor the delivery of the anticipated £500,000 "*essential spend only*" saving as set out above.
- 1.4.7 Straddling all of this is the outcome of the future Spending Review, Fair Funding Review and Business Rates Retention Reforms which have been pushed back until 2021. The outcome of the deliberations about the future or replacement of New Homes Bonus (and any legacy payments) are also awaited. As Members

are aware, council tax increases are restricted in accordance with government direction (unless a referendum is held) and if ever there was a time for the council tax referendum principles to be rescinded it is now. A 3% increase compared to £5 year on year makes such a difference to the overall financial planning, even if it were to be time limited for a three-year period for example.

## 1.5 Modelling

1.5.1 In an attempt to give a sense of the scale of the potential impact three scenarios have been considered, each with multiple assumptions at play.

- Scenario 1 – impact short-lived and quick recovery (*optimistic scenario and probably unlikely*).
- Scenario 2 – slower recovery (*most likely scenario?*).
- Scenario 3 – more severe economic downturn and slower recovery (*pessimistic scenario and hopefully unlikely*).

1.5.2 At paragraph 1.3, I gave information as to the actual impact of Covid-19 to the end of May. Projecting forward to the year end, taking on board the savings target of £500,000 related to “essential spend only”, the full effect in 2020/21 (projections under each scenario to 2022/23 also provided) might be as follows:

	Scenario 1			Scenario 2			Scenario 3		
	20/21 £'000	21/22 £'000	22/23 £'000	20/21 £'000	21/22 £'000	22/23 £'000	20/21 £'000	21/22 £'000	22/23 £'000
Income	4,000	2,000	0	4,000	2,000	1,000	5,000	3,000	1,000
Budget Pressures	350	150	0	350	150	0	350	150	0
Essential Spend	(500)	0	0	(500)	0	0	(500)	0	0
TMLT	1,000	700	0	1,100	700	0	1,300	700	0
Homelessness (*)	300	200	100	300	200	100	300	200	100
Grant Funding	(1,350)	0	0	(1,350)	0	0	(1,350)	0	0
<b>Total</b>	<b>3,800</b>	<b>3,050</b>	<b>100</b>	<b>3,900</b>	<b>3,050</b>	<b>1,100</b>	<b>5,100</b>	<b>4,050</b>	<b>1,100</b>
<b>3-Year Total</b>	<b>6,950</b>			<b>8,050</b>			<b>10,250</b>		

(\*) Reflects general increase in homeless caseload above the 2020/21 budgeted level.

1.5.3 Focusing on **the mid-range scenario** (scenario 2), Members will note that this will mean that the increased net cost of **£3,900,000 in 2020/21**, after allowing for the government grant funding received, will need to be **funded from reserves**.

1.5.4 At the meeting of Cabinet on 13 February when the Budget was considered and recommended on to Full Council, Members endorsed the setting up of a **Budget Stabilisation Reserve** initially in the sum of £3,500,000 (CB 20/9 refers). This will be a first ‘port of call’ for the Covid-19 budget impact together with funding from some other earmarked reserves. By utilising these reserves first, this reduces what would have been a significant additional call on the general revenue reserve during 2020/21. The knock-on effect is to reduce the general revenue

reserve balance to circa £6.4m at the start of 2021/22 (compared to the balance of £6.576m as at 31 March 2020 as reported to Cabinet on 3 June 2020).

- 1.5.5 Cabinet will also note there are further significant calls on the reserve projected in the following two years. Still looking at scenario 2, Members will see that there is a potential call of **£3.05m in 2021/22** and a further **£1.1m in 2022/23**, and all other things being equal, this would have the effect of taking the general revenue reserve balance below the approved minimum of £3m. (This potential issue is addressed at paragraph 1.5.81.5.8 below).
- 1.5.6 Turning now to our 10-year Medium Term Financial Strategy which effectively needs to be 'rebuilt' given the scale of the impacts, I remain of the view that the objectives Members have previously endorsed remain good and fit for purpose. The objectives are set out in paragraph 1.1.1 for reference.
- 1.5.7 A key objective which has held the Council in good stead to enable it to respond to the challenges of the pandemic has been the need to preserve a minimum of £3m in the general revenue reserve by the end of the strategy period. Members will know that in reality, until the pandemic hit, the Council held in excess of this level in the general revenue reserve which helped significantly in addressing, and smoothing out, the funding gaps we faced and avoiding 'knee jerk' reactions. With the budget stabilisation reserve of £3.5m reduced to £nil and the potential for a further circa £4.15m to be met from reserves over the next three years, this ability to smooth out the savings targets is much reduced. **Therefore, it is extremely important to recognise that whatever level of savings we need to make – either those already committed or new savings we need to address and implement - will need to be made by the date assumed in order to preserve the integrity of the MTFs .**
- 1.5.8 It is possible that our general revenue reserve balance could dip below £3m during the course of the 10-year MTFs, before returning to the £3m level dependent upon the scenario which 'plays out' in reality. I do not believe we should allow this to drop below £2m at any point in time; and I also believe we should work towards building this back to the recommended £3m level by delivering on any necessary savings targets by the dates assumed. **If there has ever been a lesson to learn, it is that retaining an appropriate level of reserve balances for emergency situations is essential.**
- 1.5.9 Three scenarios have been modelled for the duration of the MTFs in line with paragraph 1.5.1 which are expanded upon below. However, first it is important to acknowledge some key assumptions that underpin each of the scenarios.
- Overall government grant funding over the medium term is as assumed in the recent budget setting process;
  - Housing trajectory / tax base realigned;
  - Council tax increases of £5 per annum;

- Pay inflation assumed at 2% per annum;
- Investment rates climb over the duration of the MTFs;
- Temporary accommodation costs remain at a high level during 2020/21, and begin to drop in 2021/22 and again in 2022/23 reducing to a financial level akin to that originally budgeted for 2020/21 thereafter;
- Following deferral of Cabinet's decision in respect of increases in / introduction of car parking charges for 2020/21, assumed that these will instead be implemented in 2021/22 and 2022/23 and reviews will continue annually thereafter;
- Transfer of ownership and responsibility for public conveniences to progress on original timetable as recommended by Members;
- Sale of River Walk Offices and River Lawn and associated investment income in line with previous assumptions and as per Member approvals;
- Necessary budget growth reported to other Committees / Boards included;
- Garden waste annual increases moving towards Kent average;
- Scaling down of office accommodation and associated costs to reflect increased home working by 2024; and
- Reduced use of car parks as a result of behavioural change where people work from home more often.

1.5.10 The outcome of the modelling for the three scenarios is as follows:

- Scenario 1 suggests a projected funding gap of £600,000 split into two equal savings tranches of £300,000 to be achieved **by** April 2024 and April 2027.
- Scenario 2 suggests a projected funding gap of £600,000 split into three savings tranches of £300,000, £200,000 and £100,000 to be achieved **by** April 2023, April 2025 and April 2027 respectively.
- Scenario 3 suggests a projected funding gap of £700,000 and one equivalent savings tranche to be achieved **by** April 2022.

1.5.11 To put the range of the scale of the funding gap into context for each scenario – '*significant*', '*daunting*' and '*becoming out of reach*'. **Not forgetting this is in addition to** all of the initiatives identified at paragraph 1.5.9 delivering at least the saving expected and by the date assumed, if not earlier, or substituted by something else of an equivalent or higher value and all that has been done to date to 'balance the books' following the fallout from the 2007 banking crisis.

- 1.5.12 Members should note that if we are faced with scenario 3 or something similar/worse (which we won't yet know), the need to deliver the additional savings over and above those we have already committed to will come over the horizon very quickly. **Therefore Cabinet may want to set some level of saving target to be delivered by April 2021 and by April 2022 (e.g. £100k for each of those target dates) in order to protect our position should the worst scenario happen.**
- 1.5.13 These are of course indicative projections and as the year progresses and we have greater certainty, or at least understanding, of the impacts, we will update the modelling. Again, Management Team will continue to closely monitor the impact on the Council's finances and reserve balances as more information becomes available and a better understanding begins to emerge, and update Members via the Finance, Innovation and Property Advisory Board.

## 1.6 Savings and Transformation Strategy

- 1.6.1 As Cabinet is aware, alongside the MTFs sits a Savings and Transformation Strategy. The purpose of the Strategy is to provide structure, focus and direction in addressing the financial challenge faced by the Council. In so doing, it recognises that there is no one simple solution and as a result we will need to adopt a number of ways to deliver the required savings and transformation contributions within an agreed timescale.
- 1.6.2 A number of key themes have been identified, together with outline targets and timescales which will need to be revisited and aligned with the latest projected funding gap. Under each scenario the scale and timing of requisite savings and transformation contributions have increased/ come forward in time compared to that determined as part of the recent budget setting process.
- 1.6.3 Not only will the Council need to deliver any new targets, but it will also need to ensure it delivers on the 'outstanding' decisions it made prior to the pandemic and which were built into the previous MTFs and continue in these latest versions. As mentioned earlier these include: transfer and/or sale of public conveniences; car parking increases and introduction of new charges; incremental increases in garden waste charges; and timely sales of River Walk and River Lawn sites.
- 1.6.4 Management Team will be considering this over the next few weeks and months with the intention of bringing a draft revision of the Strategy to Cabinet in the Autumn.

## 1.7 Legal Implications

- 1.7.1 The Localism Act gives local communities the power to veto excessive council tax increases. The Secretary of State will determine a limit for council tax increases which has to be approved by the House of Commons. If an authority proposes to raise council tax above this limit they will have to hold a referendum to get approval for this from local voters who will be asked to approve or veto the rise.

- 1.7.2 The Local Government Finance Act 2012 and regulations that followed introduced the current Business Rates Retention scheme.

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

- 1.8.1 The scale of the financial challenge irrespective of the scenario is stark and, dependent on the scenario, places financial sustainability of TMBC at increased risk.
- 1.8.2 The future Spending Review, Fair Funding Review and Business Rates Reforms brings further uncertainty in addition to the adverse impact of the Covid-19 pandemic. How TMBC will fair, together with the current economic conditions have the potential to place further pressure on the Council's finances.
- 1.8.3 The Council maintains a prudent level of reserves to provide a safety net for unforeseen or other circumstances. The Robustness of Estimates and Adequacy of Reserves statement that the Council's Chief Financial Officer (i.e. myself as Director of Finance & Transformation) is required to produce under the local Government Finance Act 2003 to support Members in considering the Budget Setting report, lists examples of why the Council needs to retain a minimum level of reserves. Examples include: *Emergencies; Economic and world recession; Interest Rate volatility; Income volatility; Closure of major trading area e.g. leisure centre for uninsured works; and Government Legislation*. Rather than one or even two of these examples occurring, we have the situation of all of these examples impacting at the same time.
- 1.8.4 The Council has resolved to hold a minimum level of general revenue reserve of £3 million in order to provide for a host of potential financial and operational risks. At the start of 2020/21, the general revenue reserve balance was circa £6.6m giving some headroom to deal with issues arising without more immediate 'draconian' measures.

## **1.9 Risk Assessment**

- 1.9.1 The Medium Term Financial Strategy sets out the high level financial objectives the Council wishes to fulfil and underpins the budget setting process for the forthcoming year and over the Strategy period. As the Council's high level financial planning tool the Strategy needs to be reviewed and updated at least annually and in the current climate regularly reviewed by Management Team.
- 1.9.2 We will not know the extent of the adverse financial impact as a result of the Covid-19 pandemic for some time, but in all likelihood our reserve balances will be very much reduced from that assumed in February 2020; and as a result, in turn, have an adverse impact on the scale and timing of the savings and transformation contributions required. The scale of the financial challenge is such that financial sustainability at risk.
- 1.9.3 The continuing uncertainty and volatility surrounding local government finances does not aid financial planning with the increased risk of significant variations

compared to projections; and the consequent implications on the level of reserves held.

- 1.9.4 Any increase in council tax above the relevant threshold, even by a fraction of a percentage point, would require a referendum to be held.
- 1.9.5 The Cabinet instigated an essential spend only policy for the financial year 2020/21 in order to contain as far as possible budget growth as a result of the pandemic. The forecasts suggest that this, together with the balance in the general revenue reserve, should enable the Council to respond to, and recover from, the impacts of the pandemic provided of course any resulting (and potentially significant) savings targets are delivered. This is nevertheless a ‘tall ask’ and reserve balances will be significantly depleted with little room for manoeuvre. Cabinet will have noted in a report to the meeting on 3 June, that the Strategic risks ‘*Financial position/budget deficit*’ and ‘*Corporate Strategy and Savings and Transformation Strategy*’ have been escalated to RED risk on the Strategic Risk Register.
- 1.9.6 Much debate has been made of the potential and (perhaps necessity in some cases) for local authorities to issue s114 notices (under the s114 (3) of the Local Government Finance Act 1988). For Members’ information this says that the Chief Finance Officer of a relevant authority shall make a report under this section if it appears to him/her that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources available to it to meet that expenditure. As Cabinet will have gathered, due to careful and prudent husbandry of resources in the past, I do not believe that TMBC is in this position. **However, it is imperative that we carefully monitor and contain expenditure and continuously update our forecasts to ensure that we remain on track.** This will of course include reflecting in our forecasting the outcome of the Fair Funding Review and Business Rates Reform which is as yet an unknown quantity.

## 1.10 Equality Impact Assessment

- 1.10.1 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.

## 1.11 Policy Considerations

1.11.1 Business Continuity/Resilience

1.11.2 Community

1.11.3 Healthy Lifestyles

1.11.4 Health and Safety

## 1.12 Recommendations

### 1.12.1 Cabinet are **RECOMMENDED** to:

- 1) Note the spend and income foregone as a result of Covid-19 as at end of May and as set out in the report;
- 2) Approve the target of £500,000 to be saved during 2020/21 from appropriate budgets in relation to the 'essential spend only' policy and request that Management Team continuously monitor this during the year;
- 3) Note the imperative to continue to progress the savings initiatives as soon as practically possible for which decisions were made prior to the pandemic;
- 4) Note the range of potential financial impacts forecast for the end of the financial year 2020/21;
- 5) Continue to lobby for additional grant payments from government to assist with the unprecedented financial impacts;
- 6) Agree that the general revenue reserve balance should not drop below £2m at any point in the MTF5 10-year period as we recover from the pandemic, and that a minimum level of £3m be returned by the end of the period;
- 7) Consider whether indicative savings targets of, say, £100,000 to be achieved April 2021 and £100,000 to be achieved by April 2022 be set in order to protect the Council's financial position;
- 8) Note that the Covid-19 pandemic will, in all likelihood, have a significant impact on the Council's reserve balances and as a result, in turn, have an adverse impact on the scale and timing of the savings and transformation contributions required;
- 9) Note the scale of the financial challenge such that financial sustainability is at risk; and
- 10) Management Team be asked to bring a draft revision of the Savings and Transformation Strategy to Cabinet in the Autumn.

Background papers:

Nil

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Sharon Shelton

Sharon Shelton  
Director of Finance and Transformation



## TONBRIDGE & MALLING BOROUGH COUNCIL

### CABINET

30 June 2020

#### Report of the Management Team

#### Part 1- Public

#### Executive Non Key Decision

#### 1 CORPORATE PLAN – ADDENDUM

##### Executive Summary

**This report provides an update on recent activity in response to Coronavirus Emergency, and references activity in accordance with the Corporate Plan – Addendum, which will allow Cabinet to review progress at a strategic level.**

#### 1.1 Background

1.1.1 At its meeting on 3<sup>rd</sup> June 2020, Cabinet agreed an addendum to the Corporate Strategy to provide a strategic framework for the Council’s recovery plan, underpinned by three themes (Review, Re-orientation and Recovery), and within the context of the county wide recovery “cells”.

1.1.2 The structure of the framework is based on thematic strands of Economy, Infrastructure, Communities & Health, Environment and Running the Council.

1.1.3 Rather than deal with specific elements, this report seeks to set out a “roadmap” of current activity on the thematic strands, and highlights a variety of reports that will be coming to various Boards and Committees, for Member debate over the coming months.

1.1.4 As ever, this report has been written at a “point in time”. Any implications of significant changes to national guidance will be highlighted at the meeting.

#### 1.2 Economy

1.2.1 Economy – The county wide economic recovery cell, will provide the context for this work. The Chief Executive is a member of this cell. Detailed work is underway on modelling the impact assessment on various business sectors, and geographies. The work of this cell is key in ensuring engagement with a variety of partners and potential sources of funding, including the South East Local Enterprise Partnership (SELEP), The Kent and Medway Economic Partnership (KMEP), the business communities and the skills sectors. The proposed time frame for completion of this work is the end of July, which will then provide the context for a full report to Members via the Economic and Regeneration Advisory Board on 02 September 2020.

- 1.2.2 Business Support & Finance – The Government’s Small Business and Retail, Hospitality and Leisure Grants continue to be distributed. The initial allocation of funding reported to Members was £18.7 million. Our business intelligence demonstrated that if all eligible businesses did apply, the funding would be insufficient. We raised this with the relevant Minister, and received a further allocation of £1.446m taking at our total funding to £20.12 million. At the time of writing, 89% of this funding has been distributed. Our own Discretionary Business Support Grants Scheme (with an allocation of £1.006 million), has been adopted, promoted and applications are currently being assessed against our policy. A full report on both Government Schemes and our own discretionary scheme will be presented to the meeting of Finance Innovation and Property Board on 22 July.
- 1.2.3 Town Centres – Since the last meeting of Cabinet, our retail areas have re-opened. Our action plan included assessment of retail areas in Tonbridge, West Malling, Snodland and Borough Green. This has been a multi-agency approach led by the Community Safety Unit, and engagement with a variety of partners including Chambers of Commerce, Tonbridge Town Team, Town and Parish Councils and individual businesses. The Leader has held 2 virtual meetings with retailers to discuss issues and ideas, firstly to plan for re-opening and then a first week review. At the time of writing, a further meeting is being scheduled.
- 1.2.4 Our town centre re-opening action plan remains dynamic and will be amended if required in response to either changes in government guidance or experience on the ground. This is still a scenario of both response and recovery, with the short term focus, being the priority at this stage.

### **1.3 Infrastructure**

- 1.3.1 Local Plan – an update on the Local Plan will be reported to the Planning and Transportation Advisory Board in July 2020. Officers are in discussions with PINS, via the programme officer, about the methods for holding publically accessible hearings whilst COVID-19 related restrictions are in place and have been reviewing approached utilised in other examinations in public currently underway. At present, the timetable as presented to Members at PTAB in March 2020, with adoption in the second half of 2021, is considered to be achievable.
- 1.3.2 Housing – there will be a number of reports on use of the private sector to support housing need through utilising existing private housing infrastructure at the July meeting of the Communities, Housing Advisory Board. A Housing Needs survey, sampling residents across the borough, is due to take place in July, with results being utilised to augment existing knowledge about housing need. Initial work on delivery models for increasing the supply of affordable housing will be presented to Members in autumn 2020 and this work will include a renewed focus on Empty Homes.

- 1.3.3 Sustainable Transport – a report to PTAB in July 2020 will present options for a policy and delivery framework for sustainable transport infrastructure and update on the initial walking and cycling route audit stage of work being undertaken.

## **1.4 Communities and Housing**

- 1.4.1 Housing – the review of the housing allocations policy is underway as per the timetable reported to CHAB in November 2019 and it is envisaged that revised draft policy will be presented for Member approval to consult in November 2020. Officers are working closely at both an operational and strategic level with RP partners and partners including Homes England and MHCLG to look at a range of housing options. There is a continuing strong focus from MHCLG on Rough Sleepers and officers are actively engaged in securing move on options for those housed during COVID-19 and looking at longer term programmes for homeless households of all types.

## **1.5 Environment**

- 1.5.1 Air Quality and Climate Change– following a report to the Street Scene and Environment Advisory Board in February 2020, a draft Air Quality Management Action Plan, which responds to statutory requirements, the wider policy framework at a national and county level and the Council's own emerging Climate Change strategy will be presented to the September meeting of SSEAB. The consultation period for the Draft Climate Change Strategy has been extended until 30 June 2020, to allow more time for residents and groups to submit their comments as previously agreed by Cabinet.
- 1.5.2 Parks and Leisure-an update report will be presented to the next meeting of CHAB in early July on progress with the reopening of indoor and outdoor leisure facilities, progress with capital schemes and the outdoor events calendar. Members will note the separate report in these papers on the financial stability of the Leisure Trust and the establishment of a budget to support the Trust. The major capital works at Larkfield Leisure Centre are nearing completion and the potential transfer of management arrangements at Leybourne Lakes Country Park is under review including external legal advice on procurement.
- 1.5.3 Parking-whilst parking charges now apply in the Council's car parks Cabinet has agreed that any increases in charges and the introduction of charges to car parks in the northern parishes will be deferred. It is the intention to report to the next meeting of the Street Scene and Environment Advisory Board in September on this issue. An internal Officer Group has been established to consider the potential introduction of contactless payments in the car parks and an update will be included at the aforementioned meeting of the SSEAB.
- 1.5.4 Street Scene-the garden waste subscriptions have recently been reintroduced and demand has been strong. The timescale for the introduction of the new service arrangements to flats and communals are currently under discussion with Urbaser, and will be progressed on a phased basis as soon as is practicable. Work on the

transfer of public conveniences to Parish/Town Councils has recommenced and the original timescale will still apply. A full update will be reported to the next meeting of SSEAB.

## **1.6 Running the Council**

- 1.6.1 New Ways of Working – work is underway on a review of the Council’s office accommodation requirements, with a view to facilitating more flexible working, reducing overheads and meeting targets within the Climate Change Strategy. Our recent positive experiences in relation to homeworking necessitated by the pandemic give us confidence that we can identify new ways of working and at the same time reduce the financial costs associated with maintaining our assets.
- 1.6.2 Financial Recovery – a report elsewhere on the agenda sets out proposals in regard to the Cabinet’s decision regarding ‘essential spend’ only in 2020/21; and initial indications regarding the impact on the Medium Term Financial Strategy. Further information will be reported to the Finance, Innovation & Property Advisory Board in due course as well as Cabinet in due course.
- 1.6.3 Property & Investments – impacts on treasury management activity will be reported to the Audit Committee at its meeting on 27 July.

## **1.7 Legal Implications**

- 1.7.1 The statutory framework governing the response to the pandemic is evolving and changing on a frequent basis, both in the restrictions placed upon individuals and upon the responsibilities of local authorities. Any specific proposals or changes brought about by the Addendum will be assessed at the appropriate time to ensure they are lawful

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

- 1.8.1 As previously reported, the Council received funding from the government in two tranches totalling some £1.35m. Unless supplemented, this funding will not be sufficient to cover the current financial impacts as reported to Members. Returns are being submitted to government by the Director of Finance & Transformation on a monthly basis as required by MHCLG.
- 1.8.2 An earmarked Reorientation/ Post Emergency Reserve of £200,000 has been established to assist the Council in some of its recovery activity. This may prove to be insufficient, and will be kept under review.

## **1.9 Risk Assessment**

- 1.9.1 The Council’s Strategic Risk Register has been updated substantially and will be revised again as appropriate prior to reporting to the Audit Committee in July.

### 1.10 Policy Considerations

- Procurement
- Community
- Business Continuity/Resilience
- Healthy Lifestyles
- Climate Change
- Asset Management
- Customer Contact
- Health & Safety
- Human Resources

### 1.11 Recommendations

1.11.1 That the strategic update in respect of the Corporate Plan Addendum be **ENDORSED**

1.11.2 That regular strategic monitoring reports be submitted to future meetings of Cabinet

Background papers:

contact: Julie Beilby

Nil

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Deferred from Cabinet of 3 June 2020 as per Cabinet Decision [D200034CAB](#)

## Item PE 20/4 referred from Planning and Transportation Advisory Board of 3 March 2020

Following feedback from consultees and stakeholders on engagement processes the report provided an update on Development Management with a view to ensuring parity and improving efficiency and effectiveness. If approved, the proposals could result in savings to support the Borough Council's Medium Term Financial Strategy, support the Borough Council's commitment to the Climate Change and Digital Strategies and create service efficiencies that enabled planning applications and decisions to be dealt with in a timely way.

Members recognised the value in reviewing internal working practices to ensure that the development management function was delivered efficiently for the benefit of residents and applicants. In particular, Members welcomed the proposals around notification deadlines, validation dates and the use of 'List B' to trigger the commencement of the 21 day notification period. Members also supported the principle of stricter measures being in place to reduce last minute amendments to planning applications

However, concern was expressed that the proposals represented a significant challenge for parish councils, who would have to adapt their current practices to adopt the changes. To support parishes through this process Planning Officers would actively engage with parish councils (and other interested parties) to understand the issues and concerns around the proposals and to identify potential digital solutions. It was not the Borough Council's intention to prevent anyone from engaging in the planning process.

It was also intended to hold a number of training sessions, working in partnership with the Kent Association of Local Councils (KALC) and the Parish Partnership Panel to support parish councils in using digital tools such as the Public Access portal and My Account to keep informed of planning applications in their area. There would be a transition period from 1 June 2020, during which the approach would be tested and there would be discussions between planning officers and parish councils to identify any issues.

Finally, reference was made to late representations and the need to retain flexibility around any information received to ensure that fundamental matters were addressed when considering a planning application.

Members discussed the proposals in detail and Officers responded to concerns, comments and questions raised.

**RECOMMENDED:** That the proposed changes to process, set out in the report and detailed below, be agreed:

- (1) from 1 September 2020, the Borough Council will not accept representations on applications received after the relevant 21 day period from any party not included in the statutory (technical) consultees definition (as set out in

paragraph 1.2.9 of the report). It would, however, be recognised that there could be exceptions to this where fundamental matters were raised outside the period, which could leave the authority open to legal challenge or raised new material considerations.

- (2) from 1 September 2020, the Borough Council will notify Parishes via the weekly List B and they will have 21 days from then within which to make representations (as set out in paragraph 1.2.12 of the report) and therefore the provision of hard copies of planning applications to Parish Councils will cease and they will be required to view relevant papers online (as set out in paragraph 1.2.12 of the report);
- (3) the savings derived from changes to how Parish Councils will be notified will contribute to both the Savings and Transformation Strategy and the Medium Term Financial Strategy (as set out in paragraph 1.2.14 of the report);
- (4) from 1 September 2020, amendments to planning applications will not be accepted, other than where the changes sought were considered to be 'de-minimis', correct errors or discrepancies identified by officers or where a Planning Performance Agreement was in place that provided for such amendments to be negotiated between the parties (as set out in paragraph 1.3.7 of the report); and
- (5) progress on the proposals will be updated at the meeting of the Planning and Transportation Advisory Board scheduled for 28 July 2020.

**\*Referred to Cabinet**



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

**03 March 2020**

**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 DEVELOPMENT MANAGEMENT – PROCESSES AND PROCEDURES**

**Summary**

**This report seeks to provide an update on Development Management following feedback from consultees on engagement processes, with a view to ensuring parity. The proposals in this report would, if agreed, result in some savings to support the Council's medium term financial strategy and service efficiencies.**

**1.1 Introduction**

- 1.1.1 Following feedback from various parties to the planning process including Parish Councils, officers have taken the opportunity to review certain current processes, procedures and actions in order to improve efficiency and effectiveness. This feedback included concerns about late amendments to planning applications, the need to move to determination of applications in a timely fashion and simplifying processes to ensure that consultees can have time to consider applications and liaise where appropriate with their borough Members. This will inevitably be an ongoing process but some key aspects of our working practices have already been identified and improvements and innovation efforts are being made in order to have a demonstrable and measureable impact on the efficiency, quality and delivery of the development management function.
- 1.1.2 The national planning practice guidance sets out that once a planning application has been validated, the Local Planning Authority (the "LPA") should make a decision on the proposal **as quickly as possible**, and in any event within the statutory time limit unless a longer period is agreed in writing with the applicant. The statutory time limits are usually 13 weeks for applications for major development and 8 weeks for all other types of development (unless an application is subject to an Environmental Impact Assessment, in which case a 16 week limit applies). Members will be aware that applications which are accompanied by a Planning Performance Agreement are not subject to these timeframes and the Council has a published protocol dealing with these specifically. All local authorities are required to submit data indicating percentages of decisions that are made within these deadlines and there are

specific targets to be met. Officers continually work to ensure these targets are met each month but in a number of circumstances it is necessary to formally agree “extensions of time” with applicants to account for delays that have arisen which does not make for efficient decision making.

- 1.1.3 There are mechanisms in place in an attempt to combat delays in decision making, including the ability for applicants to appeal to the Secretary of State via his Planning Inspectorate against “non-determination” in the event that a decision is not made within the statutory time periods. Furthermore, there is provision that application fees become repayable if a decision is not made within 26 weeks of validation taking place.
- 1.1.4 This provides a clear indication that government emphasis is focused on LPAs issuing planning decisions in a timely way.
- 1.1.5 There will, of course, always be a balance to be struck between this and the fact that we are also encouraged to work in a positive manner with all stakeholders to ensure the best and most appropriate developments come forward in the interests of proper place making.
- 1.1.6 According to the National Planning Policy Framework (NPPF), the ultimate objective of any planning service is to deliver sustainable development. Beyond meeting this objective, the extent to which a Development Management service can be considered ‘good’ by customers and stakeholders is subjective, although of course the context provided above is key. The Planning Advisory Service (PAS) recognises that efficiency, quality and delivery broadly define whether a Development Management service can be considered good or not.

## 1.2 Public Consultation and Engagement

- 1.2.1 Members will be aware that after the Council receives a planning application, it undertakes a period of consultation where views on the proposed development can be expressed. There are statutory provisions setting out how such consultation must be undertaken (Town and Country Planning (Development Management Procedure) Order 2015 (as amended)).
- 1.2.2 The Order places a statutory duty on LPAs to publicise planning applications either
  - 1) by site display in at least one place on or near the land to which the application relates for not less than 21 days; **or**
  - 2) by serving the notice on any adjoining owner or occupier.

The application must **also** 3) be published on the Council’s website.

- 1.2.3 Presently, the Council exceeds these statutory requirements by undertaking a combination of those notification processes and whilst presently it is not intending

to implement a wholesale change this approach, there are ways to ensure it is undertaken in a proportionate and efficient manner.

- 1.2.4 In terms of engagement with Parish Councils specifically, the Council has a duty to notify them upon receipt of planning applications. There is no subsequent duty upon them to respond to that notification, or indeed, for the Council to attribute any prescribed amount of weight or significance to any representations the PC might chose to make in reaching a decision. This is an important distinction to the way case law instructs we must treat the responses of statutory consultees such as Historic England, the Environment Agency or Highways England, for example.
- 1.2.5 What the Order does make clear however is that when Parish Councils do wish to make representations, in order for them to be considered as such they must be made within 21 days of notification. Where a PC has been notified, under paragraph 8 of Schedule 1, this triggers the 21 day representation period for the PC under paragraph 25 of the Order. The Order actually states that the PC ***“must make any representations to [the LPA] within 21 days of the notification to them of the application”***.
- 1.2.6 The Order also sets out how representations received must be taken into account and the requisite period for allowing for representations to be made. In other words, that a final decision on whether or not to grant planning permission cannot be made until the expiration of the 21 day period from the notification being made. Historically however, the service has continued to accept representations after this time period up to the point of determination, although there is no statutory or constitutional basis requiring this to happen. In all respects, the planning practice guidance advises LPAs that they may, at their discretion, take into account comments that are made after the closing date (but they have no obligation to do so).
- 1.2.7 Conversely, provision is contained within the Order that allows for statutory (technical) consultees to notify the Council within the 21 day period should they consider further information is required from the applicant to enable them to make a substantive response. Habitually, this will relate to technical data and associated information. This is because they are, in fact, required to provide us with a representation when we consult them. The same ability is not expressly provided for in the case of other consultees because they are not required to respond in the same way.
- 1.2.8 There are occasions where late representations from non-statutory consultees have been received (over the prescribed period) which, in the case of decisions to be made under delegated powers causes a delay to determination or subsequent to committee reports being published.
- 1.2.9 Consideration has been given to how to avoid scenarios which cause such delays to decision making and it is considered that the way to overcome this is to propose that the Council will not accept representations on applications received

after the relevant 21 day period from any party not included in the statutory (technical) consultees definition.

- 1.2.10 This does not necessarily mean that late representations will completely cease. In the event that any are received, there will still be a need to ensure that any information they contain do not raise any fundamental matters that could leave the authority open to legal challenge or raise new, previously unconsidered, material considerations. Beyond this, any such representations received after the relevant deadline date will not be taken into account.
- 1.2.11 Similarly, officers understand that some confusion can arise when Parish Councils are effectively working to a different deadline to that of borough Members in terms of the timeframe within which to call applications in to the relevant Area Planning Committee. Operationally this is because Parishes are sent an individual notification along with the entire planning application submission in hard copy whereas the Borough Councillors are notified of the receipt of planning applications via the published weekly list (commonly referred to as "List B").
- 1.2.12 To overcome this, Parishes would now be notified via the weekly list as per the approach with borough Members and will have 21 days from then within which to make representations. As part of this, the Council will no longer be providing the Parish Councils with hard copies of all planning applications and instead they will be required to view them online through the Public Access pages on the Council's website as with other consultees.
- 1.2.13 It is appreciated that this will represent a change in the way we have approached such matters, and Parish Councils in particular will have to adapt their current practices to accommodate this change. It is therefore recognised that there will need a suitable lead in period whereby our notification letters and the website clearly set this out to avoid any misunderstanding or confusion. Similarly, officers would wish to engage with Parish Councils to establish what particular needs they might have that the Borough Council might reasonably assist with to ensure they are not disengaged from the process. As part of this, should Members agree these proposals, we intend to hold training sessions, working in partnership with KALC and the Parish Partnership Panel, to support Parish Councils in using digital tools such as the Public Access portal and My Account to keep informed of planning applications in their area. Officers would therefore be engaging with all Parish Councils over the coming weeks to establish if they require any assistance in preparing for the change to our processes and will be targeting an implementation date of 1 September 2020 with a transitional period from 1 June 2020 during which the approach will be tested and there will be discussions between planning officers and parish councils to work through any issues. In addition, Members will be offered an opportunity for a briefing session.
- 1.2.14 Moreover, it should be recognised that in addition to better alignment in notification processes arising from this change, there will be further benefits arising, not least the considerable amount of paper that will be saved (around

245,000 sheets per annum) and the financial saving in printing costs, plus associated costs attributed to physically posting the documents and use of courier services in some circumstances. In addition, the officer time saved in undertaking this task could be considered as part of the overarching aim of increased efficiency within the service. It is proposed that the c.£7,500 printing costs and associated postage costs be a saving to support the Council's Medium Term Financial Strategy.

### **1.3 Engagement with Developers and Applicants**

- 1.3.1 Following consultation and assessment of any application, there may be occasions where schemes require amendment in order to ensure they are acceptable. However, this should be done as an agreed outcome of clear and structured negotiations where, for example, Officers have identified that an objection can be readily overcome by such an amendment.
- 1.3.2 It is always at the discretion of the LPA whether to accept amendments and then to subsequently determine if the changes need to be reconsulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted.
- 1.3.3 In terms of the need for re-consultation, it is up to the LPA to decide whether further publicity and consultation is necessary in the interests of fairness, and there is case law governing such matters (*R (Broad) v Rochford DC* [2019] EWHC 628 (Admin)). In deciding what further steps may be necessary we are required to consider whether, without re-consultation, any of those who were entitled to be consulted on the application would be deprived of the opportunity to make any representations that they may have wanted to make on the application as amended.
- 1.3.4 There have been recent experiences of unsolicited amendments to planning applications being submitted without negotiations having taken place in a response to objections published or after the publication of committee reports in order, for example, to overcome particular objections raised within assessments and/or recommendations of refusal.
- 1.3.5 Whilst there is a need to positively engage with applicants and developers in order to achieve well designed, acceptable schemes, this must be balanced against the need for timely and efficient decision making in addition to ensuring fairness of information provision through public consultation, as set out above. Again, there is nothing contained within legislation or the Constitution that *requires* the Council to accept unsolicited amendments to planning applications.
- 1.3.6 In practical terms, the correct time for constructive negotiations to take place on proposed schemes is via the pre-application process, and through the use of Planning Performance Agreements where necessary. Officers will continue to stress the importance of these to applicants and developments.

1.3.7 In order to ensure effective and efficient decision making combined with the importance of their being a fairness in approach, it is considered that there needs to be a marked change in the way amendments to live planning applications are dealt with. This is summarised as follows:

- Amendments to schemes which are due to be considered by the relevant Area Planning Committee where reports have been published will not be accepted. The applicant has the choice to have the application determined by the Committee or to formally withdraw the application and resubmit on an amended basis to allow for consultation and subsequent assessment to take place.
- Amendments to schemes that amount to anything more than “*de-minimis*” changes or changes that are required to correct discrepancies or errors uncovered through officer assessment/investigation will not be accepted on any live application.
- If officers having made a full assessment of a scheme determine that amendments are required in order to make a scheme acceptable in planning terms, they will firstly consider whether the harm identified can be obviated by imposition of condition. If this is not possible, the applicant will be invited to withdraw the application within a given timeframe or their application will be recommended for refusal of planning permission.
- Negotiations on substantive amendments to schemes that will require further consultation to take place will only take place on applications where a Planning Performance Agreement in accordance with the Council’s protocol is already in place. Planning Performance Agreements will have been considered at the pre-application stage.

1.3.8 Again, it is appreciated that this will represent a change in our working practices, and if agreed, agents and developers should be advised of such a change in approach to avoid confusion. This will be done via the relevant pages of the Council’s website and via ongoing officer liaison with them, particularly as part of pre-application discussions.

## **1.4 Legal Implications**

1.4.1 The ongoing work set out above will ensure that the practices in place will continue to meet all statutory duties and requirements.

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

1.5.1 Implementation of the processes set out above will ensure that the service continues to provide a high quality service to customers, consequently minimising the risk of potentially costly appeals against non-determination being taken forward and being required to refund application fees.

- 1.5.2 Applications can be resubmitted once free of charge if an applicant is invited to withdraw. Given that the resubmission would be on the basis of the work to date, there is an additional resource implication around managing a new consultation process, however this is not considered to be significant.

## 1.6 Risk Assessment

- 1.6.1 Not making the recommended changes to processes and practices may result in risks around not meeting national targets for decision making, an increase in non-determination appeals and repayment of application fees.

## 1.7 Policy Considerations

- 1.7.1 The recommendations align with both the emerging Climate Change Strategy and the Digital Transformation Strategy.
- 1.7.2 In seeking to look at service efficiencies, the recommendations support the Council's Savings and Transformation Strategy.

## 1.8 Equality Impact Assessment

- 1.8.1 No issues raised.

## 1.9 Recommendations

- 1.9.1 That Members **AGREE** the proposed changes to process as set out in this report, namely:
- 1) From 1 September 2020, the Council will not accept representations on applications received after the relevant 21 day period from any party not included in the statutory (technical) consultees definition (as set out at paragraph 1.2.9 of the report).
  - 2) From 1 September 2020 the Council will notify Parishes via the weekly list B and they will have 21 days from then within which to make representations. Additionally, the provision of hard copies to the Parish Councils will cease and they will be required to view them online (as set out at paragraph 1.2.12 of the report).
  - 3) The savings derived from changes to how Parish Council's will be notified, will make a contribution to support both the Savings and Transformation Strategy and Council's Medium Term Financial Strategy (as set out at paragraph 1.2.14 of the report).
  - 4) From 1 September 2020, amendments will not be accepted to planning applications other than either where the changes sought are considered to be "de-minimis", correct errors or discrepancies identified by officers or where there is a Planning Performance Agreement in place that provides for such amendments to be negotiated between the parties (as set out in paragraph 1.3.7 of the report).

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  
Louise Reid

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health



## TONBRIDGE & MALLING BOROUGH COUNCIL

### CABINET

30 June 2020

#### Report of the Director of Chief Executive and Leader

#### Part 1- Public

#### Matters for Information

### 1 ELECTORAL REVIEW FOR TONBRIDGE & MALLING BOROUGH COUNCIL

#### Executive Summary

**This report advises that the Local Government Boundary Commission for England, will be undertaking a boundary review of electoral wards across the borough, commencing in September 2020.**

#### 1.1 Overview

- 1.1.1 The Local Government Boundary Commission for England (LGBCE) is an independent body responsible for determining the electoral arrangements of local authorities across England.
- 1.1.2 Each year, the Commission calculates the levels of electoral imbalance in each Local Authority area, to establish whether there is a need for an electoral review.
- 1.1.3 Electoral imbalances arise if voters are either over or under-represented by their councillor(s) when compared with average levels of representation across the authority area. Under the criteria adopted by the Commission, either of the following conditions are considered to warrant a review if the imbalance is unlikely to be corrected by foreseeable changes to the electorate within a reasonable period:
- 1) The first condition is where any Local Authority with an electoral division or ward that has an electoral variance of 30% or over. This means a division or a ward having 30% more or fewer electors per councillor than is average for the council as a whole.
  - 2) The second condition being any local authority where more than 30% of divisions or wards have an electoral variance of over 10% from the average for that authority.
- 1.1.4 For Members' interest, details of how reviews work can be found at: <https://www.lgbce.org.uk/how-reviews-work>

## **1.2 Review of arrangements for Tonbridge & Malling Borough Council**

- 1.2.1 A map is attached at **[Annex 1]** which shows the electoral variances by ward. Members will note that the ward Burham & Wouldham has an electoral variance of -32%, and a further 3 wards have variances of over 10% (Snodland West & Holborough Lakes – 11%, Wateringbury -12%, and Kingshill +18%)
- 1.2.2 The variance for Burham & Wouldham already meets the criteria for a Boundary review, and the growth rate at Kingshill will further increase the variance there.
- 1.2.3 The LGBCE have confirmed that there will be a boundary review commencing after the summer recess. Members are referred to the letter dated 10 June 2020 from Professor Colin Mellors attached at **[Annex 2]**.
- 1.2.4 A draft timetable for the review is attached at **[Annex 3]**. As Members will note this is a very collaborative programme commencing with a briefing for all group leaders, and a whole council briefing currently being scheduled for late Summer/early Autumn 2020. It is these briefings that will commence the process and set out how the reviews will be approached.

## **1.3 Legal Implications**

- 1.3.1 The criteria for triggering a Boundary review have been met, and as such the LGBCE are to commence a review.

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

- 1.4.1 None at this stage.

## **1.5 Risk Assessment**

- 1.5.1 None at this stage, but Members should note that this will required diversion to staff resources in order to develop thoughts on proposed council size as set out in the letter at [Annex 2].

## **1.6 Policy Considerations**

- 1.6.1 Community
- 1.6.2 Communications

Background papers:

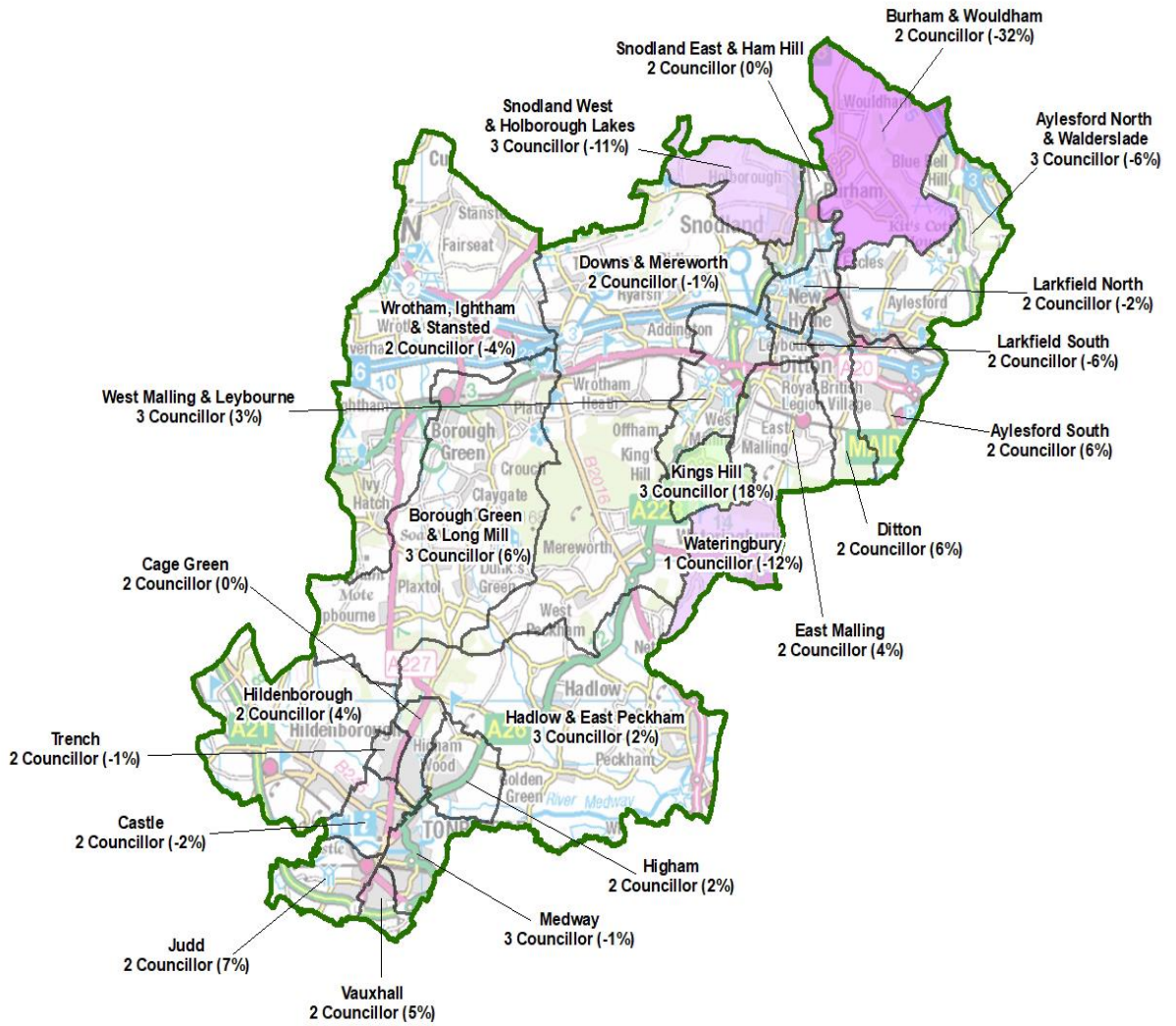
Nil

contact: Julie Beilby  
Chief Executive

Julie Beilby  
Chief Executive

Nicolas Heslop  
Leader of the Council

Annex 1 – Electoral Variances.



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Cllr Nicolas Heslop  
Leader  
Tonbridge and Malling Borough Council  
Gibson Building  
Gibson Drive  
West Malling  
Kent  
ME19 4LZ

10 June 2020

Dear Cllr Heslop

We were pleased to meet you, Cllr Coffin, Julie Beilby and Adrian Stanfield yesterday to discuss the forthcoming electoral review of Tonbridge and Malling Council. These preliminary meetings are extremely helpful to us, both enabling us to outline the review process and assisting our understanding of key agendas and priorities for the local authority. It was disappointing, of course, that we had to talk via video conference in view of current travel restrictions, but I hope that you will share our view that that this did not prevent us having a helpful and productive meeting.

As explained, we are intending to undertake an electoral review of the Council because of the level electoral imbalances that exist within the authority which breach our standard criteria.

The initial tasks for the Council will be to develop thoughts on proposed council size (ie the number of elected members) alongside assembling five-year electorate forecast data. Commission officers will liaise with your officers on the latter aspect in order to ensure that figures are as robust as possible. In that context, it was helpful to learn that the Council is confident about future developments, and their location, that will build upon the growth that has already taken place in the area over recent years.

Importantly, this stage also provides the opportunity to consider the number of elected members and to reflect, from first principles, on the role and contribution of elected members in modern local governance. From our conversation, it is clear that the Council will take this opportunity to consider the issue of council size carefully and we trust that the framework we described, and which is available on the Commission's website, will assist you in this task.

We also discussed the potential timetable which you indicated was acceptable and I will ask colleagues to send you a copy of this separately for convenience. Also, Julie kindly agreed to liaise with Jolyon about the timing of the three briefings - group leaders, relevant officers and the full council. It would be good to get these in the diary.

We have yet to decide the Lead Commissioner for the review, but Richard Buck will be the Review Manager and Tom Rutherford the Review Officer, and first point of contact at the Commission.

We are keen to have a collaborative dialogue between officials throughout the process since we find that this leads to a better outcome and the reviews that proceed most smoothly are invariably those where the Commission and the local authority work closely with each other. From our meeting, I am confident that this will be the case in Tonbridge and Malling.

Also, we believe that the most productive reviews are those where the opportunity is taken to think about how the review might assist the council's own aspirations in terms of governance and similar.

Finally, I want to stress again our commitment to working with you in a way that not only allows the Commission to discharge its statutory responsibilities in respect of electoral fairness but will also be helpful to the Council in achieving its own ambitions.

Best wishes

Professor Colin Mellors  
Chair

cc Cllr Martin Coffin  
Julie Beilby, Chief Executive  
Adrian Stanfield, Director of Central Services and Deputy Chief Executive

## Tonbridge & Malling Council: Electoral Review Timetable

These timetables outline the key dates and activities for both the Council (shown in bold) and the Commission during the review process.

### Preliminary Period

<b>Briefings</b>	<b>Attendees</b>		<b>Key Dates</b>
	<b>Council</b>	<b>LGBCE</b>	
<b>Initial Meeting</b>	<b>Council Leader Chief Executive</b>	Chair Chief Executive	<b>9 June 2020</b>
<b>Officer Briefing</b>	<b>Council Officers involved in review</b>	Review Manager Review Officer	<b>TBC – Late Summer/Autumn 2020</b>
<b>Group Leader Briefing</b>	<b>Council Group Leaders</b>	Lead Commissioner Review Manager Review Officer	
<b>Full Council Briefing</b>	<b>All Councillors</b>	Lead Commissioner Review Manager Review Officer	
Parish/Town Council & Local Groups Briefing	Not required	Review Manager Review Officer	TBC

### Council Size

<b>Activity</b>	<b>Involvement</b>		<b>Key Dates</b>
	<b>Council</b>	<b>LGBCE</b>	
<b>Develop council size proposal</b>	<b>Council Political Groups</b>	Officers will be available to answer any technical queries on making a submission.	<b>Autumn 2020 – Spring 2021</b>
<b>Submission of council size proposals</b>	<b>Council Political Groups</b>	Officers will acknowledge receipt of submissions.	<b>20 March 2021</b>
Commission Meeting: Council Size	Not required	Commission	20 April 2021

## Warding Patterns

<b>Activity</b>	<b>Involvement</b>		<b>Key Dates</b>
	<b>Council</b>	<b>LGBCE</b>	
<b>Consultation on warding patterns</b>	<b>Council Political Groups General Public</b>	Run consultation, collate & analyse responses.	<b>27 April 2021 – 5 July 2021</b>
Commission Meeting: Draft Recommendations	Not required	Commission	21 September 2021
<b>Consultation on Draft Recommendations</b>	<b>Council Political Groups General Public</b>	Publish draft recommendations. Run consultation, collate & analyse responses.	<b>5 October 2021 – 13 December 2021</b>
Commission Meeting: Final Recommendations	Not required	Commission	15 February 2022

## Order

<b>Activity</b>	<b>Involvement</b>		<b>Key Dates</b>
	<b>Council</b>	<b>LGBCE</b>	
Order laid	Not required	Commission	Spring 2022
Order made	Not required	Commission	Summer 2022
<b>Implementation</b>	<b>Council</b>	Not required	<b>May 2023</b>



# Agenda Item 10

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

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# Agenda Item 11

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

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

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# Agenda Item 12

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

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